

## SIXTY-SECOND DAY

St. Paul, Minnesota, Saturday, May 21, 2011

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

**CALL OF THE SENATE**

Senator Howe 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. Joann Lee.

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

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

Bakk	Gerlach	Kubly	Nienow	Sieben
Benson	Gimse	Langseth	Olson	Skoe
Berglin	Goodwin	Latz	Ortman	Sparks
Bonoff	Hall	Lillie	Pappas	Stumpf
Brown	Hann	Limmer	Parry	Thompson
Carlson	Harrington	Lourey	Pederson	Tomassoni
Chamberlain	Higgins	Magnus	Pogemiller	Torres Ray
Cohen	Hoffman	Marty	Reinert	Vandever
Dahms	Howe	McGuire	Rest	Wiger
Daley	Ingebrigtsen	Metzen	Robling	Wolf
DeKruif	Jungbauer	Michel	Rosen	
Dibble	Kelash	Miller	Saxhaug	
Fischbach	Koch	Nelson	Senjem	
Gazelka	Kruse	Newman	Sheran	

The President declared a quorum present.

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

**EXECUTIVE AND OFFICIAL COMMUNICATIONS**

The following communications were received.

April 19, 2011

The Honorable Michelle L. Fischbach  
President of the Senate

Dear Senator Fischbach:

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

**BOARD OF HIGH PRESSURE PIPING SYSTEMS**

Mary F. DesJarlais, 522 Pelham Blvd., Saint Paul, in the county of Ramsey, effective April 25, 2011, for a term expiring on December 31, 2013.

(Referred to the Committee on Jobs and Economic Growth.)

Sincerely,  
Mark Dayton, Governor

May 20, 2011

The Honorable Michelle L. Fischbach  
President of the Senate

Dear Madam President :

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 194.

Sincerely,  
Mark Dayton, Governor

May 20, 2011

The Honorable Kurt Zellers  
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2011 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2011	Date Filed 2011
	1341	29	1:44 p.m. May 20	May 20
	721	30	1:45 p.m. May 20	May 20
194		31	1:41 p.m. May 20	May 20
	361	32	12:32 p.m. May 20	May 20
	1139	33	1:47 p.m. May 20	May 20
	724	34	1:47 p.m. May 20	May 20

Sincerely,  
Mark Ritchie  
Secretary of State

### MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1162, 478, 1208, 1265, 249, 1009 and 302.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 137:** A bill for an act relating to real property; clarifying deeds to correct title and certain acknowledgments; providing for cancellation of residential purchase agreements; clarifying redemption period for foreclosure of certain mortgages; amending Minnesota Statutes 2010, sections 272.15; 358.50; 559.217, subdivisions 3, 4, 8; 580.23, subdivision 2.

Senate File No. 137 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

### CONCURRENCE AND REPASSAGE

Senator Newman, for Senator Scheid, moved that the Senate concur in the amendments by the House to S.F. No. 137 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 137 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Dahms	Harrington	Kruse	Marty
Benson	Daley	Higgins	Kubly	McGuire
Berglin	DeKruif	Hoffman	Langseth	Metzen
Bonoff	Dibble	Howe	Latz	Miller
Brown	Fischbach	Ingebrigtsen	Lillie	Nelson
Carlson	Gazelka	Jungbauer	Limmer	Newman
Chamberlain	Gerlach	Kelash	Lourey	Nienow
Cohen	Hall	Koch	Magnus	Olson

Ortman	Reinert	Sheran	Thompson	Wolf
Pappas	Rest	Sieben	Tomassoni	
Parry	Robling	Skoe	Torres Ray	
Pederson	Rosen	Sparks	Vandever	
Pogemiller	Saxhaug	Stumpf	Wiger	

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

### MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 191:** A bill for an act relating to insurance; enacting the recommendation of the Small Group Health Insurance Market Working Group by repealing a requirement that small employers that do not offer group health coverage either offer, or file a form with the state stating a decision not to offer, a Section 125 plan through which employees may contribute wages to a pretax account from which to pay for individual health insurance; repealing Minnesota Statutes 2010, section 62U.07.

Senate File No. 191 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Senator Bakk, for Senator Scheid, moved that S.F. No. 191 be laid on the table. The motion prevailed.

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 301:** A bill for an act relating to public safety; expanding the fourth-degree assault crime and the assaulting a police horse crime to provide more protection to reserve officers; amending Minnesota Statutes 2010, sections 609.2231, by adding a subdivision; 609.597; 626.84, subdivision 1.

Senate File No. 301 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Senator Newman moved that S.F. No. 301 be laid on the table. The motion prevailed.

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 1044:** A bill for an act relating to state government; modifying provisions relating to state agency responses to natural disasters; amending Minnesota Statutes 2010, sections 12A.05; 12A.06, subdivision 1; 12A.07, subdivisions 1, 2; 12A.09, subdivision 4; 12A.10, by adding a subdivision; 12A.12, subdivisions 2, 3, by adding a subdivision; 12A.15, by adding a subdivision; 12A.16.

Senate File No. 1044 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

### CONCURRENCE AND REPASSAGE

Senator Parry moved that the Senate concur in the amendments by the House to S.F. No. 1044 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1044 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Gerlach	Langseth	Olson	Skoe
Benson	Goodwin	Latz	Ortman	Sparks
Berglin	Hall	Lillie	Pappas	Stumpf
Bonoff	Harrington	Limmer	Parry	Thompson
Brown	Higgins	Lourey	Pederson	Tomassoni
Carlson	Hoffman	Magnus	Pogemiller	Torres Ray
Chamberlain	Howe	Marty	Reinert	Vandev eer
Dahms	Ingebrigtsen	McGuire	Rest	Wiger
Daley	Jungbauer	Metzen	Robling	Wolf
DeKruif	Kelash	Miller	Rosen	
Dibble	Koch	Nelson	Saxhaug	
Fischbach	Kruse	Newman	Sheran	
Gazelka	Kubly	Nienow	Sieben	

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

### MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully

requested:

**S.F. No. 1045:** A bill for an act relating to commerce; regulating continuing education requirements, insurance coverages, adjusters, and appraisers; amending Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding subdivisions; 45.30, subdivision 7, by adding a subdivision; 45.35; 60K.56, subdivision 6; 62A.095, subdivision 1; 62A.318, subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62L.03, subdivision 3; 72B.041, subdivision 5; 79A.06, subdivision 5; 79A.24, by adding subdivisions; 82.641, subdivision 1; 82B.11, subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 45; 72B; repealing Minnesota Statutes 2010, section 45.25, subdivision 3.

Senate File No. 1045 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Senator Chamberlain moved that the Senate do not concur in the amendments by the House to S.F. No. 1045, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 1270:** A bill for an act relating to state government; changing a provision in geospatial advisory council and extending the expiration date; amending Minnesota Statutes 2010, section 16B.99, subdivision 8; repealing Minnesota Statutes 2010, section 16B.99, subdivision 9.

Senate File No. 1270 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

### CONCURRENCE AND REPASSAGE

Senator Wiger moved that the Senate concur in the amendments by the House to S.F. No. 1270 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1270 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 1, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kubly	Nienow	Sieben
Benson	Gerlach	Langseth	Olson	Skoe
Berglin	Goodwin	Latz	Ortman	Sparks
Bonoff	Hall	Lillie	Pappas	Stumpf
Brown	Harrington	Limmer	Parry	Thompson
Carlson	Higgins	Lourey	Pederson	Tomassoni
Chamberlain	Hoffman	Magnus	Pogemiller	Torres Ray
Cohen	Howe	Marty	Reinert	Wiger
Dahms	Ingebrigtsen	McGuire	Rest	Wolf
Daley	Jungbauer	Metzen	Robling	
DeKruif	Kelash	Miller	Rosen	
Dibble	Koch	Nelson	Saxhaug	
Fischbach	Kruse	Newman	Sheran	

Those who voted in the negative were:

Vandev eer

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

### MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 1285:** A bill for an act relating to human services; making changes to chemical and mental health services; making rate reforms; amending Minnesota Statutes 2010, sections 245.462, subdivision 8; 245.467, subdivision 2; 245A.03, subdivision 7; 253B.02, subdivision 9; 254B.03, subdivisions 5, 9; 254B.05; 254B.12; 254B.13, subdivision 3; 256B.0622, subdivision 8; 256B.0623, subdivisions 3, 8; 256B.0624, subdivisions 2, 4, 6; 256B.0625, subdivisions 23, 38; 256B.0926, subdivision 2; 256B.0947; repealing Minnesota Statutes 2010, sections 254B.01, subdivision 7; 256B.0622, subdivision 8a.

Senate File No. 1285 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Senator Newman moved that S.F. No. 1285 be laid on the table. The motion prevailed.

Madam 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. 55:** A bill for an act relating to education; modifying charter authorizer approval deadline; amending Minnesota Statutes 2010, section 124D.10, subdivision 3.

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

Woodard, Kelly and Slocum.

Senate File No. 55 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Madam 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. 943:** A bill for an act relating to game and fish; modifying aquaculture provisions; modifying compensation and assistance provisions for crop damage by elk; modifying requirements for fish and wildlife management plans; modifying provisions for taking, possessing, and transporting wild animals; modifying penalty and license provisions; modifying duties of the Board of Water and Soil Resources; limiting landowner liability for state walk-in access program; requiring rulemaking; providing criminal penalties; amending Minnesota Statutes 2010, sections 3.7371; 16C.055, subdivision 2; 17.4982, subdivisions 8, 12, 13, by adding a subdivision; 17.4991, subdivision 3; 17.4992, subdivision 4; 17.4994; 84.942, subdivision 1; 84.95, subdivision 2; 84D.11, subdivision 2a; 97A.015, subdivisions 24, 45, 49, 52, 55; 97A.028, subdivision 3; 97A.075, subdivision 6; 97A.101, subdivision 3; 97A.311, subdivision 5; 97A.321, subdivision 1; 97A.331, by adding a subdivision; 97A.405, subdivision 2; 97A.415, subdivision 2; 97A.425, subdivision 3; 97A.433, by adding a subdivision; 97A.435, subdivision 1; 97A.445, subdivision 1a; 97A.465, subdivision 5; 97A.475, subdivision 7; 97A.505, subdivision 2; 97A.545, subdivision 5; 97B.022, subdivision 2; 97B.041; 97B.055, subdivision 3; 97B.075; 97B.106, subdivision 1; 97B.211, subdivision 1; 97B.425; 97B.515, by adding a subdivision; 97B.645, subdivision 9; 97B.711, by adding a subdivision; 97B.803; 97C.005, subdivision 3; 97C.081, subdivisions 3, 4, by adding a subdivision; 97C.087, subdivision 2; 97C.205; 97C.211, subdivision 5; 97C.341; 103B.101, subdivision 9; 604A.24; proposing coding for new law in Minnesota Statutes, chapters 17; 97B; 348; repealing Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, 4; 97A.015, subdivisions 26b, 27b, 27c; 97A.435, subdivision 5; 97C.081, subdivision 2.

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

Hackbarth, Buesgens, Drazkowski, McNamara and Dill.

Senate File No. 943 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 20, 2011

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to



House File No. 247:

**H.F. No. 247:** A bill for an act relating to taxation; providing for voluntary contributions to the state on the income tax form; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Davids, Anderson, S., and Loon have been appointed as such committee on the part of the House.

House File No. 247 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 20, 2011

Senator Ortman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 247, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 874:

**H.F. No. 874:** A bill for an act relating to education finance; removing obsolete language; amending Minnesota Statutes 2010, section 126C.10, subdivision 2.

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

Garofalo, Kelly and Anderson, P. have been appointed as such committee on the part of the House.

House File No. 874 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 20, 2011

Senator Olson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 874, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1011:

**H.F. No. 1011:** A bill for an act relating to natural resources; providing for disposition of trout and salmon management account; appropriating money; amending Minnesota Statutes 2010, section 97A.075, subdivision 3.

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

McNamara, Hackbarth and Dill have been appointed as such committee on the part of the House.

House File No. 1011 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 20, 2011

Senator Ingebrigtsen moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1011, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1234:

**H.F. No. 1234:** A bill for an act relating to state government; requiring the commissioner of administration to issue a request for proposals and enter into a contract for strategic sourcing consulting services; appropriating money.

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

Downey, Lanning and Stensrud have been appointed as such committee on the part of the House.

House File No. 1234 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 20, 2011

Senator Carlson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1234, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1105:

**H.F. No. 1105:** A bill for an act relating to motor vehicles; modifying provisions related to pickup trucks; amending Minnesota Statutes 2010, sections 168.002, subdivisions 24, 26, 40, by adding subdivisions; 168.021, subdivision 1; 168.12, subdivisions 1, 2b; 168.123, subdivision 1; Laws 2008, chapter 350, article 1, section 5, as amended.

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

Kiel, Beard and Eken have been appointed as such committee on the part of the House.

House File No. 1105 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 20, 2011

Senator Jungbauer moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1105, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

### REPORTS OF COMMITTEES

Senator Koch moved that the Committee Report at the Desk be now adopted. The motion prevailed.

#### **Senator Koch, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 264** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
264	160				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 264 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 264, the second engrossment; and insert the language after the enacting clause of S.F. No. 160, the first engrossment; further, delete the title of H.F. No. 264, the second engrossment; and insert the title of S.F. No. 160, the first engrossment.

And when so amended H.F. No. 264 will be identical to S.F. No. 160, and further recommends that H.F. No. 264 be given its second reading and substituted for S.F. No. 160, and that the Senate File be indefinitely postponed.

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

### SECOND READING OF HOUSE BILLS

H.F. No. 264 was read the second time.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

#### **Senators DeKruif, Gimse, Lillie, Parry and Sparks introduced—**

**S.F. No. 1456:** A bill for an act relating to motor vehicles; transferring certain duties regarding commercial vehicles and permits from commissioner of transportation to commissioner of public safety; amending Minnesota Statutes 2010, sections 169.781, subdivisions 3, 5, 6; 169.783, subdivision 1; 169.81, subdivision 1; 169.826, subdivisions 1, 1a, 2; 169.8261, subdivision 2; 169.86; 169.862, subdivision 1; 169.863; 169.864, subdivisions 1, 2, 4; 169.866, subdivisions 1, 3; 299D.02, by adding a subdivision.

Referred to the Committee on Transportation.

#### **Senators Nienow, Miller, Hall, Kruse and Hoffman introduced—**

**S.F. No. 1457:** A bill for an act relating to state government; suspending compensation of legislators and the governor until certain major budget bills have been passed by the legislature; proposing coding for new law in Minnesota Statutes, chapter 3.

Referred to the Committee on State Government Innovation and Veterans.

#### **Senators Nienow, Miller, Hall, Parry and Howe introduced—**

**S.F. No. 1458:** A bill for an act relating to state government; providing certain appropriations continue in effect at a 70 percent rate unless eliminated or otherwise modified.

Referred to the Committee on Finance.

#### **Senator Latz introduced—**

**S.F. No. 1459:** A bill for an act relating to taxation; modifying determinations of substandard buildings for redevelopment districts and renewal and renovation districts in the tax increment financing law; amending Minnesota Statutes 2010, sections 469.174, subdivisions 10, 10a; 469.176, subdivision 4j.

Referred to the Committee on Taxes.

**Senator Dibble introduced–**

**S.F. No. 1460:** A bill for an act relating to taxation; tobacco; increasing the cigarette and tobacco products taxes and fees; modifying definitions; requiring a study; imposing a floor stocks tax on cigarettes; adjusting the 2011 rate of the cigarette sales tax; appropriating money; amending Minnesota Statutes 2010, sections 297F.01, subdivisions 3, 19; 297F.05, subdivisions 1, 3, 4; 325D.32, subdivision 2.

Referred to the Committee on Taxes.

**Senator Parry introduced–**

**S.F. No. 1461:** A bill for an act relating to natural resources; requiring rulemaking for recreational prospecting.

Referred to the Committee on Environment and Natural Resources.

**Senators Magnus, Sparks, Rosen and Gimse introduced–**

**S.F. No. 1462:** A bill for an act relating to the State Lottery; establishing lottery facility games; imposing a tax on and providing for facility revenues; providing powers and duties to the director; making clarifying, conforming, and technical changes; amending Minnesota Statutes 2010, sections 297A.94; 299L.02, subdivision 1; 299L.07, subdivisions 2, 2a; 340A.404, by adding a subdivision; 340A.410, subdivision 5; 349A.01, subdivisions 10, 11, 12, by adding subdivisions; 349A.02, subdivision 3; 349A.04; 349A.06, subdivision 8; 349A.08, subdivisions 1, 5, 8; 349A.10, subdivisions 2, 5; 349A.11, subdivision 1; 349A.13; 541.20; 541.21; 609.75, subdivision 3; 609.761, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 297A; 349A.

Referred to the Committee on State Government Innovation and Veterans.

**Senators Pappas, Magnus, Carlson and Langseth introduced–**

**S.F. No. 1463:** A bill for an act relating to capital investment; appropriating money for renovation of the Minnesota Telecenter Building in St. Paul; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

**Senators Magnus, Harrington, Daley, Hann and Parry introduced–**

**S.F. No. 1464:** A bill for an act relating to family law; allowing recovery of a portion of the marriage license fee for members of the armed forces who complete premarital education after the license is issued; amending Minnesota Statutes 2010, section 517.08, subdivision 1b.

Referred to the Committee on Judiciary and Public Safety.

**Senators Magnus, Rest, Harrington, Olson and Hann introduced–**

**S.F. No. 1465:** A bill for an act relating to judicial selection; proposing an amendment to the Minnesota Constitution, article VI, sections 7 and 8; establishing retention elections for judges; creating a judicial performance evaluation commission; appropriating money; amending Minnesota

Statutes 2010, sections 10A.01, subdivisions 7, 10, 15; 10A.14, subdivision 1; 10A.20, subdivision 2; 204B.06, subdivision 6; 204B.11, by adding a subdivision; 204B.34, subdivision 3; 204B.36, subdivision 4; 480B.01, subdivisions 1, 10; proposing coding for new law in Minnesota Statutes, chapters 204D; 480B; 490A; repealing Minnesota Statutes 2010, sections 204B.36, subdivision 5; 204D.14, subdivision 3.

Referred to the Committee on Local Government and Elections.

### MOTIONS AND RESOLUTIONS

S.F. No. 86 and the Conference Committee Report thereon were reported to the Senate.

### CONFERENCE COMMITTEE REPORT ON S.F. NO. 86

A bill for an act relating to energy; removing ban on increased carbon dioxide emissions by utilities; amending Minnesota Statutes 2010, section 216H.02, subdivision 4; repealing Minnesota Statutes 2010, section 216H.03.

May 20, 2011

The Honorable Michelle L. Fischbach  
President of the Senate

The Honorable Kurt Zellers  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 86 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 86 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 216H.03, subdivision 7, is amended to read:

Subd. 7. **Other exemptions.** The prohibitions in subdivision 3 do not apply to:

(1) a new large energy facility under consideration by the Public Utilities Commission pursuant to proposals or applications filed with the Public Utilities Commission before April 1, 2007, or to any power purchase agreement related to a facility described in this clause. The exclusion of pending proposals and applications from the prohibitions in subdivision 3 does not limit the applicability of any other law and is not an expression of legislative intent regarding whether any pending proposal or application should be approved or denied;

(2) a contract not subject to commission approval that was entered into prior to April 1, 2007, to purchase power from a new large energy facility that was approved by a comparable authority in another state prior to that date, for which municipal or public power district bonds have been issued, and on which construction has begun; ~~or~~

(3) a new large energy facility or a power purchase agreement between a Minnesota utility and

a new large energy facility located outside Minnesota that the Public Utilities Commission has determined is essential to ensure the long-term reliability of Minnesota's electric system, to allow electric service for increased industrial demand, or to avoid placing a substantial financial burden on Minnesota ratepayers. An order of the commission granting an exemption under this clause is stayed until the June 1 following the next regular or annual session of the legislature that begins after the date of the commission's final order; or

(4) 1,500 megawatts of electric generating capacity, in aggregate, from new large energy facilities or power purchase agreements with those new large energy facilities that:

(i) are fueled by feedstock coal; and

(ii) began construction after April 1, 2007.

Projects will receive priority for exemption under this clause based on the shortest amount of time after April 1, 2007, and the date construction of a new large energy facility begins. Power purchase agreements with new large energy facilities that are exempt from the prohibitions in subdivision 3 pursuant to this clause are also exempt from the prohibitions in subdivision 3. An exemption under this clause is not valid unless certified by the Public Utilities Commission. The commission must certify a request for an exemption if it finds the request and the grant of the exemption is in compliance with this clause.

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

Delete the title and insert:

"A bill for an act relating to energy; modifying ban on increased carbon dioxide emissions by utilities; amending Minnesota Statutes 2010, section 216H.03, subdivision 7."

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

Senate Conferees: Julie A. Rosen, LeRoy A. Stumpf, Doug Magnus

House Conferees: Michael Beard, Tim O'Driscoll, Lyle Koenen

Senator Rosen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 86 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 86 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 44 and nays 22, as follows:

Those who voted in the affirmative were:

Bakk	Dahms	Gimse	Jungbauer	Magnus
Benson	Daley	Hall	Koch	Michel
Bonoff	DeKruif	Hann	Kruse	Miller
Brown	Fischbach	Hoffman	Langseth	Nelson
Carlson	Gazelka	Howe	Lillie	Newman
Chamberlain	Gerlach	Ingebrigtsen	Limmer	Nienow

Olson  
Ortman  
Parry

Pederson  
Robling  
Rosen

Saxhaug  
Senjem  
Skoe

Stumpf  
Thompson  
Tomassoni

Vandever  
Wolf

Those who voted in the negative were:

Berglin  
Cohen  
Dibble  
Goodwin  
Harrington

Higgins  
Kelash  
Kubly  
Latz  
Lourey

Marty  
McGuire  
Metzen  
Pappas  
Pogemiller

Reinert  
Rest  
Sheran  
Sieben  
Sparks

Torres Ray  
Wiger

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

### MOTIONS AND RESOLUTIONS - CONTINUED

#### SPECIAL ORDERS

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

H.F. Nos. 258, 988, 650, 1144, 954, 1406 and S.F. No. 1420.

#### SPECIAL ORDER

**H.F. No. 258:** A bill for an act relating to taxation; revenue recapture; authorizing licensed ambulance services to submit claims directly to the state; amending Minnesota Statutes 2010, sections 270A.03, subdivision 2; 270A.07, subdivision 1.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk  
Benson  
Berglin  
Bonoff  
Brown  
Carlson  
Chamberlain  
Cohen  
Dahms  
Daley  
DeKruif  
Dibble  
Fischbach

Gazelka  
Gerlach  
Goodwin  
Hall  
Hann  
Harrington  
Higgins  
Hoffman  
Howe  
Jungbauer  
Kelash  
Koch  
Kruse

Kubly  
Latz  
Lillie  
Limmer  
Lourey  
Magnus  
Marty  
McGuire  
Metzen  
Miller  
Nelson  
Newman  
Nienow

Olson  
Ortman  
Pappas  
Parry  
Pederson  
Pogemiller  
Reinert  
Rest  
Robling  
Rosen  
Saxhaug  
Senjem  
Sheran

Sieben  
Skoe  
Sparks  
Stumpf  
Thompson  
Tomassoni  
Torres Ray  
Vandever  
Wiger  
Wolf

So the bill passed and its title was agreed to.



**SPECIAL ORDER**

**H.F. No. 988:** A bill for an act relating to public defenders; modifying provisions providing for representation by a public defender; amending Minnesota Statutes 2010, sections 609.131, subdivision 1; 611.16; 611.17; 611.18; 611.20, subdivisions 3, 4; 611.27, subdivisions 1, 5; repealing Minnesota Statutes 2010, section 611.20, subdivision 6.

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 1, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kubly	Newman	Saxhaug
Benson	Gerlach	Langseth	Nienow	Sheran
Bonoff	Goodwin	Latz	Olson	Sieben
Brown	Hall	Lillie	Ortman	Skoe
Carlson	Hann	Limmer	Pappas	Sparks
Chamberlain	Harrington	Lourey	Parry	Stumpf
Cohen	Higgins	Magnus	Pederson	Thompson
Dahms	Howe	Marty	Pogemiller	Tomassoni
Daley	Jungbauer	McGuire	Reinert	Torres Ray
DeKruif	Kelash	Metzen	Rest	Vandever
Dibble	Koch	Miller	Robling	Wiger
Fischbach	Kruse	Nelson	Rosen	Wolf

Those who voted in the negative were:

Berglin

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

**H.F. No. 650:** A bill for an act relating to transportation; regulating driver education and driver examination related to carbon monoxide poisoning; making technical changes; amending Minnesota Statutes 2010, sections 171.0701; 171.13, subdivision 1, by adding a subdivision.

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 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Dibble	Howe	Magnus	Pappas
Benson	Fischbach	Jungbauer	Marty	Parry
Berglin	Gazelka	Kelash	McGuire	Pederson
Bonoff	Gerlach	Koch	Metzen	Pogemiller
Brown	Gimse	Kruse	Michel	Reinert
Carlson	Goodwin	Kubly	Miller	Rest
Chamberlain	Hall	Langseth	Nelson	Robling
Cohen	Hann	Latz	Newman	Rosen
Dahms	Harrington	Lillie	Nienow	Saxhaug
Daley	Higgins	Limmer	Olson	Sheran
DeKruif	Hoffman	Lourey	Ortman	Sieben

Skoe  
SparksStumpf  
ThompsonTomassoni  
Torres RayVandev eer  
Wiger

Wolf

So the bill passed and its title was agreed to.

### SPECIAL ORDER

**H.F. No. 1144:** A bill for an act relating to state government; providing for limited reinstatement of coverage in state employee group insurance program.

Senator Hoffman moved to amend H.F. No. 1144, as amended pursuant to Rule 45, adopted by the Senate May 20, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 849.)

Page 1, after line 4, insert

"Section 1. Minnesota Statutes 2010, section 43A.24, is amended by adding a subdivision to read:

Subd. 4. **Automated payment.** The commissioner shall provide an electronic automatic premium payment option to retired employees eligible for coverage under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2012."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1144 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 54 and nays 9, as follows:

Those who voted in the affirmative were:

Bakk	Gimse	Kubly	Miller	Robling
Benson	Goodwin	Langseth	Nelson	Saxhaug
Berglin	Hall	Latz	Newman	Sieben
Bonoff	Hann	Lillie	Nienow	Skoe
Carlson	Harrington	Limmer	Olson	Sparks
Cohen	Higgins	Lourey	Ortman	Stumpf
DeKruif	Howe	Magnus	Pappas	Tomassoni
Dibble	Jungbauer	Marty	Parry	Torres Ray
Fischbach	Kelash	McGuire	Pogemiller	Wiger
Gazelka	Koch	Metzen	Reinert	Wolf
Gerlach	Kruse	Michel	Rest	

Those who voted in the negative were:

Brown	Dahms	Hoffman	Sheran	Vandev eer
Chamberlain	Daley	Rosen	Thompson	

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

**SPECIAL ORDER**

**H.F. No. 954:** A bill for an act relating to counties; providing a process for making certain county offices appointive in Kittson County.

Senator Stumpf moved to amend H.F. No. 954 as follows:

Page 2, after line 16, insert:

"Sec. 2. **MARSHALL COUNTY OFFICES MAY BE APPOINTED.**

Subdivision 1. **Authority to make office appointive.** Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Marshall County Board of Commissioners, the offices of county recorder and county auditor-treasurer are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. **Board controls; may change as long as duties done.** Upon adoption of a resolution by the Marshall County Board of Commissioners and subject to subdivisions 3 and 4, the duties of an elected official required by statute whose office is made appointive as authorized by this section must be discharged by the Marshall County Board of Commissioners acting through a department head appointed by the board for that purpose. Reorganization, reallocation, delegation, or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. **Incumbents to complete term.** The person elected at the last general election to an office made appointive under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. **Publishing resolution; petition, referendum.** (a) Before the adoption of the resolution to provide for the appointment of the county recorder and county auditor-treasurer, the county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week for two consecutive weeks in the official publication of the county. Following publication and prior to formally adopting the resolution, the county board shall provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the Marshall County Board of Commissioners may adopt a resolution that provides for the appointment of the county recorder and county auditor-treasurer as permitted in this section. The resolution must be approved by at least 80 percent of the members of the county board. The resolution may take effect 60 days after it is adopted, or at a later date stated in the resolution, unless a petition is filed as provided in paragraph (b).

(b) Within 60 days after the county board adopts the resolution, a petition requesting a referendum may be filed with the county auditor-treasurer. The petition must be signed by at least ten percent of the registered voters of Marshall County. The petition must meet the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If the petition is sufficient, the question of appointing the county recorder and county auditor-treasurer must be placed on the ballot at a regular or special election. If a majority of the voters of the county voting on the question vote in favor of appointment, the resolution may be implemented.

Subd. 5. **Reverting to elected offices.** (a) The county board may adopt a resolution to provide for the election of an office made an appointed position under this section, but not until at least three years after the office was made an appointed position. The county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week for two consecutive weeks in the official publication of the county. Following publication and before formally adopting the resolution, the county board must provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment hearing, the county board may adopt the resolution. The resolution must be approved by at least 60 percent of the members of the county board and is effective August 1 following adoption of the resolution.

(b) The question of whether an office made an appointed position under this section must be made an elected office must be placed on the ballot at the next general election if (1) the position has been an appointed position for at least three years, (2) a petition signed by at least ten percent of the registered voters of the county is filed with the office of the county auditor-treasurer by August 1 of the year in which the general election is held, and (3) the petition meets the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If a majority of the voters of the county voting on the question vote in favor of making the office an elected position, the election for that office must be held at the next regular or special election."

Page 2, after line 20, insert:

"Section 2 is effective the day after the Marshall County Board of Commissioners and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 954 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 34 and nays 31, as follows:

Those who voted in the affirmative were:

Bakk	Harrington	Lourey	Ortman	Saxhaug
Benson	Higgins	Magnus	Pappas	Sheran
Berglin	Jungbauer	Marty	Pogemiller	Sieben
Bonoff	Kelash	McGuire	Reinert	Stumpf
Cohen	Kubly	Metzen	Rest	Torres Ray
Dibble	Langseth	Nienow	Robling	Wiger
Goodwin	Latz	Olson	Rosen	

Those who voted in the negative were:

Brown	Fischbach	Hoffman	Limmer	Pederson
Carlson	Gazelka	Howe	Michel	Skoe
Chamberlain	Gerlach	Ingebrigtsen	Miller	Sparks
Dahms	Gimse	Koch	Nelson	Thompson
Daley	Hall	Kruse	Newman	Tomassoni
DeKruif	Hann	Lillie	Parry	Vandever

Wolf

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

### SPECIAL ORDER

**H.F. No. 1406:** A bill for an act relating to human services; amending continuing care policy provisions; making changes to the telephone equipment program; making changes to disability services provisions; reforming comprehensive assessments and case management services; making changes to nursing facility provisions; making technical and conforming changes; providing for rulemaking authority; requiring reports; amending Minnesota Statutes 2010, sections 144A.071, subdivisions 3, 5a; 144D.08; 237.50; 237.51; 237.52; 237.53; 237.54; 237.55; 237.56; 245A.03, subdivision 7; 245A.11, subdivision 8; 252.32, subdivision 1a; 252A.21, subdivision 2; 256.476, subdivision 11; 256B.0625, subdivision 19c; 256B.0659, subdivisions 1, 2, 3, 3a, 4, 9, 11, 13, 14, 19, 21, 30; 256B.0911, subdivisions 1, 1a, 2b, 2c, 3, 3a, 3b, 3c, 4a, 4c, 6; 256B.0913, subdivisions 7, 8; 256B.0915, subdivisions 1a, 1b, 3c, 6, 10; 256B.0916, subdivision 7; 256B.092, subdivisions 1, 1a, 1b, 1e, 1g, 2, 3, 5, 7, 8, 8a, 9, 11; 256B.096, subdivision 5; 256B.19, subdivision 1e; 256B.431, subdivision 2t; 256B.438, subdivisions 1, 3, 4, by adding a subdivision; 256B.441, subdivision 55a; 256B.49, subdivisions 13, 14, 15, 21; 256B.4912; 256G.02, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 252; repealing Minnesota Statutes 2010, section 144A.073, subdivisions 4, 5.

Senator Nienow moved to amend H.F. No. 1406, as amended pursuant to Rule 45, adopted by the Senate May 18, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 1120.)

Page 11, after line 16, insert:

"Sec. 2. Minnesota Statutes 2010, section 245A.11, subdivision 2b, is amended to read:

Subd. 2b. **Adult foster care; family adult day services.** An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 55 age 18 or over if no persons in the adult foster or family adult day services program have a serious and persistent mental illness or a developmental disability. Family adult day services provided in a licensed adult foster care setting must be provided as specified under section 245A.143. Authorization to provide family adult day services in the adult foster care setting shall be printed on the license certificate by the commissioner. Adult foster care homes licensed under this section and family adult day services licensed under section 245A.143 shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health. A separate license is not required to provide family adult day services in a licensed adult foster care home."

Page 11, after line 28, insert:

"Sec. 4. Minnesota Statutes 2010, section 245A.143, subdivision 1, is amended to read:

Subdivision 1. **Scope.** (a) The licensing standards in this section must be met to obtain and maintain a license to provide family adult day services. For the purposes of this section, family adult day services means a program operating fewer than 24 hours per day that provides functionally

impaired adults, ~~none of which are under age 55, have serious or persistent mental illness, or have developmental disabilities, age 18 or older~~ with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care.

(b) A family adult day services license shall only be issued when the services are provided in the license holder's primary residence, and the license holder is the primary provider of care. The license holder may not serve more than eight adults at one time, including residents, if any, served under a license issued under Minnesota Rules, parts 9555.5105 to 9555.6265.

(c) An adult foster care license holder may provide family adult day services under the license holder's adult foster care license if the license holder meets the requirements of this section.

~~(d) When an applicant or license holder submits an application for initial licensure or relicensure for both adult foster care and family adult day services, the county agency shall process the request as a single application and shall conduct concurrent routine licensing inspections.~~

~~(e) Adult foster care license holders providing family adult day services under their foster care license on March 30, 2004, shall be permitted to continue providing these services with no additional requirements until their adult foster care license is due for renewal. At the time of relicensure, an adult foster care license holder may continue to provide family adult day services upon demonstration of compliance with this section. Adult foster care license holders who provide only family adult day services on August 1, 2004, may apply for a license under this section instead of an adult foster care license."~~

Page 27, after line 30, insert:

"Sec. 22. Minnesota Statutes 2010, section 256B.49, subdivision 16a, is amended to read:

Subd. 16a. **Medical assistance reimbursement.** (a) The commissioner shall seek federal approval for medical assistance reimbursement of independent living skills services, foster care waiver service, supported employment, prevocational service, and structured day service under the home and community-based waiver for persons with a traumatic brain injury, the community alternatives for disabled individuals waivers, and the community alternative care waivers.

(b) Medical reimbursement shall be made only when the provider demonstrates evidence of its capacity to meet basic health, safety, and protection standards through the following methods:

(1) for independent living skills services, supported employment, prevocational service, and structured day service through one of the methods in paragraphs (c) and (d); and

(2) for foster care waiver services through the method in paragraph (e).

(c) The provider is licensed to provide services under chapter 245B and agrees to apply these standards to services funded through the traumatic brain injury, community alternatives for disabled persons, or community alternative care home and community-based waivers.

(d) The commissioner shall certify that the provider has policies and procedures governing the following:

(1) protection of the consumer's rights and privacy;

- (2) risk assessment and planning;
- (3) record keeping and reporting of incidents and emergencies with documentation of corrective action if needed;
- (4) service outcomes, regular reviews of progress, and periodic reports;
- (5) complaint and grievance procedures;
- (6) service termination or suspension;
- (7) necessary training and supervision of direct care staff that includes:
  - (i) documentation in personnel files of 20 hours of orientation training in providing training related to service provision;
  - (ii) training in recognizing the symptoms and effects of certain disabilities, health conditions, and positive behavioral supports and interventions;
  - (iii) a minimum of five hours of related training annually; and
  - (iv) when applicable:
    - (A) safe medication administration;
    - (B) proper handling of consumer funds; and
    - (C) compliance with prohibitions and standards developed by the commissioner to satisfy federal requirements regarding the use of restraints and restrictive interventions. The commissioner shall review at least biennially that each service provider's policies and procedures governing basic health, safety, and protection of rights continue to meet minimum standards.
- (e) The commissioner shall seek federal approval for Medicaid reimbursement of foster care services under the home and community-based waiver for persons with a traumatic brain injury, the community alternatives for disabled individuals waiver, and community alternative care waiver when the provider demonstrates evidence of its capacity to meet basic health, safety, and protection standards. The commissioner shall verify that the adult foster care provider is licensed under Minnesota Rules, parts 9555.5105 to 9555.6265; that the child foster care provider is licensed as a family foster care or a foster care residence under Minnesota Rules, parts 2960.3000 to 2960.3340, and certify that the provider has policies and procedures that govern:
  - (1) compliance with prohibitions and standards developed by the commissioner to meet federal requirements regarding the use of restraints and restrictive interventions;
  - (2) documentation of service needs and outcomes, regular reviews of progress, and periodic reports; and
  - (3) safe medication management and administration.

The commissioner shall review at least biennially that each service provider's policies and procedures governing basic health, safety, and protection of rights standards continue to meet minimum standards.

- (f) The commissioner shall seek federal waiver approval for Medicaid reimbursement of family

adult day services under all disability waivers. After the waiver is granted, the commissioner shall include family adult day services in the common services menu that is currently under development.

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

Page 32, line 33, reinstate the stricken language and delete the new language

Page 32, line 34, delete the new language

Page 33, line 1, reinstate the stricken language and delete the new language

Page 33, line 2, reinstate the stricken language

Page 38, line 9, delete "nursing facility"

Page 38, line 12, delete "facility"

Page 38, line 22, after the semicolon, insert "and"

Page 38, line 26, delete the semicolon and insert a period

Page 38, line 27, delete "(4)" and delete "institutional" and strike the old language

Page 38, line 28, strike the old language

Page 38, line 29, delete "(5) providing access to" and strike the old language

Page 38, line 30, delete "institutional" and strike the old language

Page 70, delete section 3

Page 76, delete section 12

Page 78, delete section 1

Page 86, delete section 3

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

### CALL OF THE SENATE

Senator Ortman imposed a call of the Senate for the balance of the proceedings on H.F. No. 1406. The Sergeant at Arms was instructed to bring in the absent members.

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

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

Those who voted in the affirmative were:

Benson	Daley	Gimse	Hoffman	Koch
Brown	Fischbach	Hall	Howe	Kruse
Chamberlain	Gazelka	Hann	Ingebrigtsen	Lillie
Dahms	Gerlach	Harrington	Jungbauer	Limmer



Magnus	Newman	Ortman	Robling	Thompson
Michel	Nienow	Parry	Rosen	Vandever
Miller	Olson	Pederson	Senjem	Wolf

Those who voted in the negative were:

Bakk	Goodwin	Marty	Rest	Tomassoni
Berglin	Higgins	McGuire	Saxhaug	Torres Ray
Bonoff	Kelash	Metzen	Sheran	Wiger
Carlson	Kubly	Nelson	Sieben	
Cohen	Langseth	Pappas	Skoe	
DeKruif	Latz	Pogemiller	Sparks	
Dibble	Lourey	Reinert	Stumpf	

The motion prevailed. So the amendment was adopted.

H.F. No. 1406 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

Benson	Gerlach	Jungbauer	Miller	Pederson
Brown	Gimse	Koch	Nelson	Robling
Carlson	Hall	Kruse	Newman	Rosen
Dahms	Hann	Lillie	Nienow	Senjem
Daley	Hoffman	Limmer	Olson	Thompson
Fischbach	Howe	Magnus	Ortman	Vandever
Gazelka	Ingebrigtsen	Michel	Parry	Wolf

Those who voted in the negative were:

Bakk	Goodwin	Latz	Pogemiller	Stumpf
Berglin	Harrington	Lourey	Reinert	Tomassoni
Bonoff	Higgins	Marty	Rest	Torres Ray
Cohen	Kelash	McGuire	Saxhaug	Wiger
DeKruif	Kubly	Metzen	Skoe	
Dibble	Langseth	Pappas	Sparks	

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

### SPECIAL ORDER

**S.F. No. 1420:** A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2010, section 171.306, subdivision 5.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Bonoff	Cohen	DeKruif	Gazelka
Benson	Brown	Dahms	Dibble	Gerlach
Berglin	Carlson	Daley	Fischbach	Gimse

Goodwin	Kruse	Metzen	Pederson	Stumpf
Hall	Kubly	Michel	Pogemiller	Thompson
Hann	Langseth	Miller	Reinert	Tomassoni
Harrington	Latz	Nelson	Rest	Torres Ray
Hoffman	Lillie	Newman	Robling	Vandever
Howe	Limmer	Nienow	Saxhaug	Wiger
Ingebrigtsen	Lourey	Olson	Senjem	Wolf
Jungbauer	Magnus	Ortman	Sieben	
Kelash	Marty	Pappas	Skoe	
Koch	McGuire	Parry	Sparks	

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Gerlach moved that H.F. No. 1023 be taken from the table. The motion prevailed.

Pursuant to Rule 26, Senator Gerlach, designee of the Chair of the Committee on Rules and Administration, designated H.F. No. 1023 a Special Order to be heard immediately.

### SPECIAL ORDER

**H.F. No. 1023:** A bill for an act relating to judiciary; modifying certain provisions relating to courts, the sharing and release of certain data, juvenile delinquency proceedings, child support calculations, protective orders, wills and trusts, property interests, protected persons and wards, receiverships, assignments for the benefit of creditors, notice regarding civil rights, and seat belts; amending Minnesota Statutes 2010, sections 13.82, by adding a subdivision; 13.84, subdivision 6; 169.686, subdivision 1; 169.79, subdivision 6; 169.797, subdivision 4; 203B.06, subdivision 3; 260B.163, subdivision 1; 260C.331, subdivision 3; 279.37, subdivision 8; 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 357.021, subdivision 6; 359.061, subdivisions 1, 2; 462A.05, subdivision 32; 469.012, subdivision 2i; 514.69; 514.70; 518.552, by adding a subdivision; 518A.29; 518B.01, subdivision 8; 524.2-712; 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116; 524.5-502; 525.091, subdivisions 1, 3; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 5B; 201; 243; 576; 577; 630; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

Senator Limmer moved to amend H.F. No. 1023 as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[5B.11] LEGAL PROCEEDINGS; PROTECTIVE ORDER.**

If a program participant is involved in a legal proceeding as a party or witness, the court or other tribunal may issue a protective order to prevent disclosure of information that could reasonably lead to the discovery of the program participant's location.

Sec. 2. Minnesota Statutes 2010, section 279.37, subdivision 8, is amended to read:

Subd. 8. **Fees.** The party or parties making such confession of judgment shall pay the county auditor a fee as set by the county board to defray the costs of processing the confession of judgment and making the annual billings required. Fees as set by the county board shall be paid to the court administrator of the court for entry of judgment and for the entry of each full or partial release thereof. ~~The fees paid to the court administrator under this section are in lieu of the fees provided for in section 357.021. Fees collected under this section~~ and shall be processed by the county and credited to the general revenue fund of the county.

Sec. 3. Minnesota Statutes 2010, section 359.061, subdivision 1, is amended to read:

Subdivision 1. **Resident notaries.** The commission of every notary commissioned under section 359.01, together with: (1) a signature that matches the first, middle, and last name as listed on the notary's commission and shown on the notarial stamp, and (2) a sample signature in the style in which the notary will actually execute notarial acts, shall be recorded in the office of the ~~court administrator of the district court~~ local registrar of the notary's county of residence or in the county department to which duties relating to notaries public have been assigned under section 485.27, in a record kept for that purpose.

Sec. 4. Minnesota Statutes 2010, section 359.061, subdivision 2, is amended to read:

Subd. 2. **Nonresident notaries.** The commission of a nonresident notary must be recorded in the Minnesota county the notary designates pursuant to section 359.01, subdivision 2, clause (3), ~~in the office of the court administrator of the district court of that county~~ or in the county department to which duties relating to notaries public have been assigned under section 485.27.

Sec. 5. Minnesota Statutes 2010, section 514.69, is amended to read:

**514.69 FILE WITH ~~COURT ADMINISTRATOR OF THE DISTRICT COURT~~ COUNTY.**

Subdivision 1. **Perfection of hospital's lien.** In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the ~~court administrator of the district court~~ county office assigned this duty by the county board pursuant to section 485.27 of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by certified mail, to each person, firm, or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

Subd. 2. **Perfection of public assistance lien.** In the case of public assistance liens filed under section 256.015 or 256B.042, the state agency may perfect its lien by filing its verified statement in the office of the ~~court administrator~~ county office assigned this duty by the county board pursuant

to section 485.27 in the county of financial responsibility for the public assistance paid. The ~~court administrator~~ county office shall record the lien in the same manner as provided in section 514.70.

Sec. 6. Minnesota Statutes 2010, section 514.70, is amended to read:

**514.70 COURT ADMINISTRATOR COUNTY TO PROVIDE RECORD.**

The ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which the ~~court administrator~~ county office shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. The ~~court administrator~~ county office shall be paid \$5 as a fee for such filing and \$5 as a fee for filing each lien satisfaction.

Sec. 7. Minnesota Statutes 2010, section 518B.01, subdivision 8, is amended to read:

Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by certified mail. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must

include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Sec. 8. Minnesota Statutes 2010, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** (a) The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office. After the file in the proceeding has been closed only the following enumerated documents need to be retained:

~~Enumerated original documents:~~

~~(a)~~ (1) in estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents. When an estate is deemed closed as provided in ~~clause (d)~~ paragraph (b), the enumerated documents shall include all claims of creditors;

~~(b)~~ (2) in guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents; and

~~(c)~~ (3) in mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

~~(d)~~ (b) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other ~~original~~ documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Sec. 9. Minnesota Statutes 2010, section 525.091, subdivision 3, is amended to read:

Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced record is of the same force and effect as the original and may be used as the original document or book of record in all proceedings.

Sec. 10. Minnesota Statutes 2010, section 563.01, subdivision 3, is amended to read:

Subd. 3. **Authorization of forma pauperis.** (a) Any court of the state of Minnesota or any political subdivision thereof may authorize the commencement or defense of any civil action, or

appeal therein, without prepayment of fees, costs and security for costs by a natural person who makes affidavit stating (a) the nature of the action, defense or appeal, (b) a belief that affiant is entitled to redress, and (c) that affiant is financially unable to pay the fees, costs and security for costs.

(b) Upon a finding by the court that the action is not of a frivolous nature, the court shall allow the person to proceed in forma pauperis if the affidavit is substantially in the language required by this subdivision and is not found by the court to be untrue. Persons meeting the requirements of this subdivision include, but are not limited to, a person who is receiving public assistance, who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency, or who has an annual income not greater than 125 percent of the poverty line established under United States Code, title 42, section 9902(2), except as otherwise provided by section 563.02.

(c) If, at or following commencement of the action, the party is or becomes able to pay all or a portion of the fees, costs, and security for costs, the court may order payment of a fee of \$75 or reimbursement or partial payment of all or a portion of the fees, costs, and security for costs, to be paid as directed by the court.

The court administrator shall transmit any fees or payments to the commissioner of management and budget for deposit in the state treasury and credit to the general fund.

**EFFECTIVE DATE.** This section is effective July 1, 2011."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend the first Limmer amendment to H.F. No. 1023, adopted by the Senate May 21, 2011, as follows:

Page 1, after line 29, insert:

"Sec. 5. Minnesota Statutes 2010, section 484.68, subdivision 3, is amended to read:

Subd. 3. **Duties.** The district administrator shall:

(1) assist the chief judge in the performance of administrative duties;

(2) manage the administrative affairs of the courts of the judicial district;

(3) supervise the court administrators and other support personnel, ~~except court reporters,~~ who serve in the courts of the judicial district. Court reporters who serve in the courts of the judicial district and are appointed by individual judges shall remain under the supervision of the judge who appointed them and serve at their pleasure;

(4) comply with the requests of the state court administrator for statistical or other information relating to the courts of the judicial district;

(5) with the approval of the chief judge, determine the needs of the judges of the district for office equipment necessary for the effective administration of justice and develop a plan to make the equipment available to the judges of the district; the plan must be submitted to the state court

administrator for approval and determination of eligibility for state funding under section 480.15, subdivision 12; and

(6) perform any additional duties that are assigned by law or by the rules of court."

Renumber the sections in sequence and correct the internal references

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

Senator Limmer moved that H.F. No. 1023 be laid on the table. The motion prevailed.

### RECESS

Senator Gerlach 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.

### CALL OF THE SENATE

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

### MOTIONS AND RESOLUTIONS - CONTINUED

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

### MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 508, 882, 885, 994, 680 and 955.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 21, 2011

Madam President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 1280:** A bill for an act relating to employment; providing notice of sharing of gratuities and authorizing employers to safeguard and disburse shared gratuities; amending Minnesota Statutes 2010, section 177.24, subdivision 3.

Senate File No. 1280 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 21, 2011

Senator Thompson moved that the Senate do not concur in the amendments by the House to S.F. No. 1280, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 509, and repassed said bill in accordance with the report of the Committee, so adopted.

**S.F. No. 509:** A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot in most situations; providing for the issuance of voter identification cards at no charge; establishing a procedure for provisional balloting; creating challenged voter eligibility list; specifying other election administration procedures; allowing use of electronic polling place rosters; setting standards for use of electronic polling place rosters; creating legislative task force on electronic roster implementation; enacting procedures related to recounts; appropriating money; amending Minnesota Statutes 2010, sections 13.69, subdivision 1; 135A.17, subdivision 2; 171.01, by adding a subdivision; 171.06, subdivisions 1, 2, 3, by adding a subdivision; 171.061, subdivisions 1, 3, 4; 171.07, subdivisions 1a, 4, 9, 14, by adding a subdivision; 171.071; 171.11; 171.14; 200.02, by adding a subdivision; 201.021; 201.022, subdivision 1; 201.061, subdivisions 3, 4, 7; 201.071, subdivision 3; 201.081; 201.121, subdivisions 1, 3; 201.171; 201.221, subdivision 3; 203B.04, subdivisions 1, 2; 203B.06, subdivision 5; 203B.121, subdivision 1; 204B.14, subdivision 2; 204B.40; 204C.10; 204C.12, subdivisions 3, 4; 204C.14; 204C.20, subdivisions 1, 2, 4, by adding a subdivision; 204C.23; 204C.24, subdivision 1; 204C.32; 204C.33, subdivision 1; 204C.37; 204C.38; 204D.24, subdivision 2; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.86, subdivisions 1, 2; 209.021, subdivision 1; 209.06, subdivision 1; 211B.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 200; 201; 204C; 299A; proposing coding for new law as Minnesota Statutes, chapters 204E; 206A; repealing Minnesota Statutes 2010, sections 203B.04, subdivision 3; 204C.34; 204C.35; 204C.36; 204C.361.

Senate File No. 509 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 21, 2011

Madam President:

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



transmitted: H.F. Nos. 191 and 745.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 21, 2011

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 191:** A bill for an act relating to state government; consolidating services for information technology and telecommunications technology; establishing an advisory committee; transferring duties; requiring a report; appropriating money; amending Minnesota Statutes 2010, sections 16B.99; 16E.14, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 16E.

Referred to the Committee on State Government Innovation and Veterans.

**H.F. No. 745:** A bill for an act relating to health; creating an Autism Spectrum Disorder Task Force; providing appointments; requiring development of a statewide strategic plan.

Senator Michel, designee of the Chair of the Committee on Rules and Administration, moved that H.F. No. 745 be laid on the table. The motion prevailed.

### REPORTS OF COMMITTEES

Senator Michel moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1369. The motion prevailed.

#### **Senator Koch, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 232** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
232	179				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 232 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 232, the first engrossment; and insert the language after the enacting clause of S.F. No. 179; further, delete the title of H.F. No. 232, the first engrossment; and insert the title of S.F. No. 179.

And when so amended H.F. No. 232 will be identical to S.F. No. 179, and further recommends that H.F. No. 232 be given its second reading and substituted for S.F. No. 179, and that the Senate File be indefinitely postponed.

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

**Senator Koch, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1219** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1219	869				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1219 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1219, the second engrossment; and insert the language after the enacting clause of S.F. No. 869, the first engrossment; further, delete the title of H.F. No. 1219, the second engrossment; and insert the title of S.F. No. 869, the first engrossment.

And when so amended H.F. No. 1219 will be identical to S.F. No. 869, and further recommends that H.F. No. 1219 be given its second reading and substituted for S.F. No. 869, and that the Senate File be indefinitely postponed.

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

**Senator Koch, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1179** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1179	939				

and that the above Senate File be indefinitely postponed.

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

**Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred**

**S.F. No. 1369:** A bill for an act relating to retirement; major general employee statewide retirement plans; revising statutory salary scale actuarial assumptions; revising payroll growth actuarial assumptions; amending Minnesota Statutes 2010, section 356.215, subdivision 8.

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

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION**

Section 1. Minnesota Statutes 2010, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees; mandatory membership.** (a) Public employees whose salary exceeds \$425 in any month and who are not specifically excluded under subdivision 2b or who have not been provided an option to participate under subdivision 2d, whether individually or by action of the governmental subdivision, must participate as members of the association with retirement coverage by the general employees retirement plan under this chapter, the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies. Membership commences as a condition of their employment on the first day of their employment or on the first day that the eligibility criteria are met, whichever is later. Public employees include but are not limited to:

(1) persons whose salary meets the threshold in this paragraph from employment in one or more positions within one governmental subdivision;

(2) elected county sheriffs;

(3) persons who are appointed, employed, or contracted to perform governmental functions that by law or local ordinance are required of a public officer, including, but not limited to:

(i) town and city clerk or treasurer;

(ii) county auditor, treasurer, or recorder;

(iii) city manager as defined in section 353.028 who does not exercise the option provided under subdivision 2d; or

(iv) emergency management director, as provided under section 12.25;

(4) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(5) full-time employees of the Dakota County Agricultural Society; ~~and~~

(6) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elected general employee retirement plan coverage before August 20, 2009; and

(7) employees of the Red Wing Port Authority who were first employed by the Red Wing Port Authority before May 1, 2011, and who are not excluded employees under subdivision 2b.

(b) A public employee or elected official who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local

government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) If the salary of an included public employee is less than \$425 in any subsequent month, the member retains membership eligibility.

(d) For the purpose of participation in the MERF division of the general employees retirement plan, public employees include employees who were members of the former Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as members of the MERF division of the association.

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

Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department, unit or instrumentality of state or local government, or any public body established under state or local authority that has a governmental purpose, is under public control, is responsible for the employment and payment of the salaries of employees of the entity, and receives a major portion of its revenues from taxation, fees, assessments or from other public sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, charter schools formed under section 124D.10, service cooperatives exercising retirement plan participation under section 123A.21, subdivision 5, joint powers boards organized under section 471.59, subdivision 11, paragraph (a), family service collaboratives and children's mental health collaboratives organized under section 471.59, subdivision 11, paragraph (b) or (c), provided that the entities creating the collaboratives are governmental units that otherwise qualify for retirement plan membership, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Minnesota Inter-county Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the University of Minnesota with respect to police officers covered by the public employees police and fire retirement plan, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Red Wing Port Authority, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, the Dakota County Agricultural Society, Hennepin Healthcare System, Inc., and the Minneapolis Firefighters Relief Association and Minneapolis Police Relief Association with respect to staff covered by the Public Employees Retirement Association general plan.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul and other than the Red Wing Port Authority; or any hospital district organized or reorganized prior

to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district; or the board of a family service collaborative or children's mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled by representatives of governmental units.

(d) A nonprofit corporation governed by chapter 317A or organized under Internal Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a governmental subdivision unless the entity has obtained a written advisory opinion from the United States Department of Labor or a ruling from the Internal Revenue Service declaring the entity to be an instrumentality of the state so as to provide that any future contributions by the entity on behalf of its employees are contributions to a governmental plan within the meaning of Internal Revenue Code, section 414(d).

(e) A public body created by state or local authority may request membership on behalf of its employees by providing sufficient evidence that it meets the requirements in paragraph (a).

(f) An entity determined to be a governmental subdivision is subject to the reporting requirements of this chapter upon receipt of a written notice of eligibility from the association.

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

**Sec. 3. VALIDATION OF PAST RETIREMENT COVERAGE AND CONTRIBUTIONS FOR RED WING PORT AUTHORITY EMPLOYEES.**

(a) Retirement coverage by the general employees retirement plan of the Public Employees Retirement Association, allowable service credit, and salary credit for employees of the Red Wing Port Authority who were so employed after December 31, 1984, and were first so employed before May 1, 2011, who had monthly salary in any month of at least \$325 until June 30, 1988, and who had monthly salary in any month of at least \$425 after June 30, 1988, who were not otherwise excluded under the applicable edition of Minnesota Statutes, section 353.01, subdivision 2b, and who had member deductions taken and transferred in a timely manner to the general employees retirement fund before the effective date of this section are hereby validated.

(b) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, employee contributions deducted from employees of the Red Wing Port Authority described in paragraph (a) before the effective date of this section and associated employer contributions are valid assets of the general employees retirement fund and are not subject to refund or adjustment for erroneous receipt except as provided in Minnesota Statutes, section 353.32, subdivision 1 or 2; or 353.34, subdivisions 1 and 2.

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

**Sec. 4. CITY OF DULUTH AND DULUTH AIRPORT AUTHORITY; CORRECTING ERRONEOUS EMPLOYEE DEDUCTIONS, EMPLOYER CONTRIBUTIONS, AND ADJUSTING OVERPAID BENEFITS.**

Subdivision 1. **Application.** Notwithstanding any provisions of Minnesota Statutes, section 353.27, subdivisions 7 and 7b, or Minnesota Statutes 2010, chapters 353 and 356, to the contrary, this section establishes the procedures by which the executive director of the Public Employees Retirement Association shall adjust erroneous employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth and by the Duluth

Airport Authority on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008, and for adjusting benefits that were paid to former members and their beneficiaries based upon invalid salary amounts.

Subd. 2. **Refunds of employee deductions.** (a) The executive director shall refund to active employees or former members who are not receiving retirement annuities or benefits all erroneous employee deductions identified by the city of Duluth or by the Duluth Airport Authority as deductions taken from amounts determined to be invalid salary. The refunds must include interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date each refund is paid.

(b) The refund payment for active employees must be sent to the applicable members who are employees of the city of Duluth or who are employees of the Duluth Airport Authority, whichever is applicable.

(c) Refunds to former members must be mailed by the executive director of the Public Employees Retirement Association to the former member's last known address.

Subd. 3. **Benefit adjustments.** (a) For a former member who is receiving a retirement annuity or disability benefit, or for a person receiving an optional annuity or survivor benefit, the executive director must:

(1) adjust the annuity or benefit payment to the correct monthly benefit amount payable by reducing the average salary under Minnesota Statutes, section 353.01, subdivision 17a, by the invalid salary amounts;

(2) determine the amount of the overpaid benefits paid from the effective date of the annuity or benefit payment to July 1, 2009;

(3) calculate the amount of employee deductions taken in error on invalid salary, including interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the first day of the month in which the refund under paragraph (b), or action to recover net overpayments under subdivision 4, occurs; and

(4) determine the net amount of overpaid benefits by reducing the amount of the overpaid annuity or benefit as determined in clause (2) by the amount of the erroneous employee deductions with interest determined in clause (3).

(b) If a former member's erroneous employee deductions plus interest determined under this section exceeds the amount of the person's overpaid benefits, the balance must be refunded to the person to whom the annuity or benefit is being paid.

(c) The executive director shall recover the net amount of all overpaid annuities or benefits as provided under subdivision 4.

Subd. 4. **Employer credits and obligations.** (a) The executive director shall provide a credit without interest to the city of Duluth and to the Duluth Airport Authority for the amount of that governmental subdivision's erroneous employer contributions. The credit must first be used to offset the net amount of the overpaid retirement annuities and the disability and survivor benefits that remain after applying the amount of erroneous employee deductions with interest as provided

under subdivision 3, paragraph (a), clause (4). The remaining erroneous employer contributions, if any, must be credited against future employer contributions required to be paid by the applicable governmental subdivision. If the overpaid benefits exceed the employer contribution credit, the balance of the overpaid benefits is the obligation of the city of Duluth or the Duluth Airport Authority, whichever is applicable.

(b) The Public Employees Retirement Association board of trustees shall determine the period of time and manner for the collection of overpaid retirement annuities and benefits, if any, from the city of Duluth and the Duluth Airport Authority.

Subd. 5. **Treatment of invalid salary amounts in process.** (a) The governing body of the city of Duluth or the Duluth Airport Authority, as applicable, may elect to limit the period of adjustment for amounts determined to be invalid salary to apply to the fiscal year in which the error was reported to, and the salary determined to be invalid by, the Public Employees Retirement Association, and the immediate two preceding fiscal years, by a resolution of the applicable governing body transmitted to the Public Employees Retirement Association executive director within 30 days following the effective date of this section.

(b) If the governing body of the applicable governmental subdivision declines the treatment permitted under paragraph (a) or fails to submit a resolution in a timely manner, the statute of limitations specified in paragraph (a) does not apply.

**EFFECTIVE DATE.** (a) This section is effective for the city of Duluth the day after the Duluth city council and the chief clerical officer of the city of Duluth timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the city of Duluth.

(b) This section is effective for the Duluth Airport Authority the day after the Duluth Airport Authority board of directors and the chief clerical officer of the Duluth Airport Authority timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the Duluth Airport Authority.

## ARTICLE 2

### TEACHER RETIREMENT COVERAGE

Section 1. Minnesota Statutes 2010, section 354A.011, is amended by adding a subdivision to read:

Subd. 29. **Vesting; vested.** (a) "Vesting" or "vested" means having entitlement to a nonforfeitable annuity or benefit from a coordinated member program administered by a teachers retirement fund association by having credit for sufficient allowable service under paragraph (b) or (c), whichever applies.

(b) For purposes of qualifying for an annuity or a benefit as a coordinated plan member of the St. Paul Teachers Retirement Fund Association, the teacher is vested when the teacher has accrued credit for at least three years of service.

(c) For purposes of qualifying for an annuity or a benefit as a coordinated plan member of the Duluth Teachers Retirement Fund Association:

(1) a teacher who first became a member of the plan before July 1, 2010, is vested when the teacher has accrued at least three years of service; and

(2) a teacher who first became a member of the plan after June 30, 2010, is vested when the teacher has accrued at least five years of service.

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

Sec. 2. Minnesota Statutes 2010, section 354A.094, subdivision 3, is amended to read:

Subd. 3. **Qualified part-time teacher program participation requirements.** (a) A teacher in the public schools of a city of the first class who ~~has three years or more allowable service in the applicable retirement fund association~~ is vested, or three who has combined years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, and Minnesota State Colleges and Universities system at least equal to the number of years specified for vesting in the applicable first class city teacher plan, may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position. The agreement must be executed before October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the retirement fund association. If the copy of the executed agreement is filed with the association after October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4, the employing school district shall pay a fine of \$5 for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the applicable Teachers Retirement Fund Association by March 1.

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

Sec. 3. Minnesota Statutes 2010, section 354A.29, is amended by adding a subdivision to read:

Subd. 7. **Eligibility for payment of postretirement adjustments.** (a) Annually, after June 30, the board of trustees of the St. Paul Teachers Retirement Fund Association must determine the amount of any postretirement adjustment using the procedures in this subdivision and subdivision 8 or 9, whichever is applicable.

(b) On January 1, each eligible person who has been receiving an annuity or benefit under the articles of incorporation, the bylaws, or this chapter for at least three calendar months as of the end of the last day of the previous calendar year is eligible to receive a postretirement increase as specified in subdivision 8 or 9.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2010, section 354A.29, is amended by adding a subdivision to read:



Subd. 8. Calculation of postretirement adjustments; transitional provision. (a) For purposes of computing postretirement adjustments for eligible benefit recipients of the St. Paul Teachers Retirement Fund Association, the accrued liability funding ratio based on the actuarial value of assets of the plan as determined by the most recent actuarial valuation prepared under sections 356.214 and 356.215 determines the postretirement increase, as follows:

<u>Funding ratio</u>	<u>Postretirement increase</u>
<u>Less than 80 percent</u>	<u>1 percent</u>
<u>At least 80 percent but less than 90 percent</u>	<u>2 percent</u>

(b) The amount determined under paragraph (a) is the full postretirement increase to be applied as a permanent increase to the regular payment of each eligible member on January 1 of the next calendar year. For any eligible member whose effective date of benefit commencement occurred during the calendar year before the postretirement increase is applied, the full increase amount must be prorated on the basis of whole calendar quarters in benefit payment status in the calendar year prior to the January 1 on which the postretirement increase is applied, calculated to the third decimal place.

(c) If the accrued liability funding ratio based on the actuarial value of assets is at least 90 percent, this subdivision expires and subsequent postretirement increases must be paid as specified in subdivision 9.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 354A.29, is amended by adding a subdivision to read:

Subd. 9. Calculation of postretirement adjustments. (a) This subdivision applies if subdivision 8 has expired.

(b) A percentage adjustment must be computed and paid under this subdivision to eligible persons under subdivision 7. This adjustment is determined by reference to the Consumer Price Index for urban wage earners and clerical workers all items index as reported by the Bureau of Labor Statistics within the United States Department of Labor each year as part of the determination of annual cost-of-living adjustments to recipients of federal old-age, survivors, and disability insurance. For calculations of postretirement adjustments under paragraph (c), the term "average third quarter Consumer Price Index value" means the sum of the monthly index values as initially reported by the Bureau of Labor Statistics for the months of July, August, and September, divided by three.

(c) Before January 1 of each year, the executive director must calculate the amount of the postretirement adjustment by dividing the most recent average third quarter index value by the same average third quarter index value from the previous year, subtract one from the resulting quotient, and express the result as a percentage amount, which must be rounded to the nearest one-tenth of one percent.

(d) The amount calculated under paragraph (c) is the full postretirement adjustment to be applied as a permanent increase to the regular payment of each eligible member on January 1 of the next calendar year. For any eligible member whose effective date of benefit commencement occurred

during the calendar year before the postretirement adjustment is applied, the full increase amount must be prorated on the basis of whole calendar quarters in benefit payment status in the calendar year prior to the January 1 on which the postretirement adjustment is applied, calculated to the third decimal place.

(e) The adjustment must not be less than zero nor greater than five percent.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2010, section 354A.31, subdivision 1, is amended to read:

Subdivision 1. **Age and service requirements.** Any coordinated member or former coordinated member of the Duluth Teachers Retirement Fund Association or of the St. Paul Teachers Retirement Fund Association who has ceased to render teaching service for the school district in which the teachers retirement fund association exists, who is vested and who has either attained the age of at least 55 years ~~with not less than three years of allowable service credit~~ or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity. ~~Any coordinated member or former coordinated member of the Duluth Teachers Retirement Fund Association who has ceased to render teaching service for the school district in which the teacher retirement fund association exists and who has either attained the age of at least 55 years with not less than three years of allowable service credit if the member became an employee before July 1, 2010, or not less than five years of allowable service credit if the member became an employee after June 30, 2010, or received service credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.~~

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

Sec. 7. Minnesota Statutes 2010, section 354A.31, subdivision 5, is amended to read:

Subd. 5. **Unreduced normal retirement annuity.** Upon retirement at normal retirement age ~~with at least three years of service credit~~, a vested coordinated member is entitled to a normal retirement annuity calculated under subdivision 4 or 4a, whichever applies.

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

Sec. 8. Minnesota Statutes 2010, section 354A.31, subdivision 6, is amended to read:

Subd. 6. **Reduced retirement annuity.** This subdivision applies only to a person who first became a coordinated member or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (d), or subdivision 4a, paragraph (d), in conjunction with subdivision 7.

(a) Upon retirement at an age before normal retirement age ~~with three years of service credit~~ or prior to age 62 with at least 30 years of service credit, a vested coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), reduced by one-quarter of one percent for each month that the coordinated member is under normal retirement age if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit.

(b) Any coordinated member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), without any reduction by reason of early retirement.

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

Sec. 9. Minnesota Statutes 2010, section 354A.35, subdivision 2, is amended to read:

Subd. 2. **Death while eligible to retire; surviving spouse optional annuity.** (a) The surviving spouse of a vested coordinated member who ~~has credit for at least three years of service and~~ dies prior to retirement may elect to receive, instead of a refund with interest under subdivision 1, an annuity equal to the 100 percent joint and survivor annuity the member could have qualified for had the member terminated service on the date of death. The surviving spouse eligible for a surviving spouse benefit under this paragraph may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. A surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for an annuity at any time after the member's death. The member's surviving spouse shall be paid a joint and survivor annuity under section 354A.32 and computed under section 354A.31.

(b) If the member was under age 55 and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the member and surviving spouse on the date of death. The annuity is payable using the full early retirement reduction under section 354A.31, subdivision 6, paragraph (a), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If ~~the~~ a vested member was under age 55 and ~~has credit for at least three years of allowable service~~ on the date of death but did not yet qualify for retirement, the surviving spouse may elect to receive the 100 percent joint and survivor annuity based on the age of the member and the survivor at the time of death. The annuity is payable using the full early retirement reduction under section 354A.31, subdivision 6 or 7, to age 55 and one-half of the early retirement reduction from age 55 to the date payment begins.

(d) Sections 354A.37, subdivision 2, and 354A.39 apply to a deferred annuity or surviving spouse benefit payable under this section. The benefits are payable for the life of the surviving spouse, or upon expiration of the term certain benefit payment under subdivision 2b.

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

Sec. 10. Minnesota Statutes 2010, section 354A.36, subdivision 1, is amended to read:

Subdivision 1. **Minimum age, service, and salary requirements.** Any coordinated member who ~~has at least three years of allowable service credit~~ is vested, who has an average salary of at least \$75 per month, and who has become totally and permanently disabled shall be entitled to a disability benefit. If the disabled coordinated member's allowable service credit has not been continuous, at least two years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

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

Sec. 11. Minnesota Statutes 2010, section 354A.37, is amended to read:

**354A.37 REFUNDS; DEFERRED ANNUITY.**

Subdivision 1. **Eligibility for refund.** Any coordinated member who ceases to render teaching service for the school district in which the teachers retirement fund association is located shall be entitled to a refund in lieu of any other annuity or benefit from the teachers retirement fund association, other than an annuity from a tax shelter annuity program and fund as authorized ~~pursuant to~~ under section 354A.021, subdivision 5. The amount of the refund ~~shall~~ must be calculated ~~pursuant to~~ under subdivision 3. The application for the refund ~~shall~~ must not be made prior to 30 days after the cessation of teaching services if the coordinated member has not resumed active teaching services for the district. Payment of the refund ~~shall~~ must be made within 90 days after receipt of the refund application by the board.

Subd. 2. **Eligibility for deferred retirement annuity.** (a) Any coordinated member who ceases to render teaching services for the school district in which the teachers retirement fund association is located, with sufficient allowable service credit to meet the minimum service requirements specified in section 354A.31, subdivision 1, shall be entitled to a deferred retirement annuity in lieu of a refund ~~pursuant to~~ under subdivision 1. The deferred retirement annuity ~~shall~~ must be computed ~~pursuant to~~ under section 354A.31 and shall be augmented as provided in this subdivision. The deferred annuity ~~shall commence~~ commences upon application after the person on deferred status attains at least the minimum age specified in section 354A.31, subdivision 1.

(b) The monthly annuity amount that had accrued when the member ceased to render teaching service must be augmented from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There is no augmentation if this period is less than three months. ~~For a member of the St. Paul Teachers Retirement Fund Association, the rate of augmentation is three percent compounded annually until January 1 of the year following the year in which the former member attains age 55, and five percent compounded annually after that date to the effective date of retirement if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. For a member of the Duluth Teachers Retirement Fund Association, The rate of augmentation is three percent compounded annually until January 1 of the year following the year in which the former member attains age 55, five percent compounded annually after that date to July 1, 2012, and two percent compounded annually after that date to the effective date of retirement if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually to July 1, 2012, and two percent compounded annually after that date to the effective date of retirement if the employee becomes became an employee after June 30, 2006.~~ If a person has more than one period of uninterrupted service, a separate average salary determined under section 354A.31 must be used for each period, and the monthly annuity amount related to each period must be augmented as provided in this subdivision. The sum of the augmented monthly annuity amounts determines the total deferred annuity payable. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with the fund. If a person does not render teaching services in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of resumption of teaching service are those applicable to new members. The mortality table and interest assumption used to compute the annuity are the table established by the fund to compute other annuities, and the interest assumption

under section 356.215 in effect when the member retires. A period of uninterrupted service for the purpose of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(c) The augmentation provided by this subdivision applies to the benefit provided in section 354A.35, subdivision 2. The augmentation provided by this subdivision does not apply to any period in which a person is on an approved leave of absence from an employer unit.

**Subd. 3. Computation of refund amount.** ~~A former coordinated member of the St. Paul Teachers Retirement Fund Association who qualifies for a refund under subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated employee contributions with interest at the rate of six percent per annum compounded annually. A former coordinated member of the Duluth Teachers Retirement Fund Association who qualifies for a refund under subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated employee contributions with interest at the rate of six percent per annum compounded annually to July 1, 2010, if the person is a former member of the Duluth Teachers Retirement Fund Association, or to July 1, 2011, if the person is a former member of the St. Paul Teachers Retirement Fund Association, and four percent per annum compounded annually thereafter.~~

**Subd. 4. Certain refunds at normal retirement age.** Any coordinated member who has attained the normal retirement age with less than ten years of allowable service credit and has terminated active teaching service shall be entitled to a refund in lieu of a proportionate annuity pursuant to under section 356.32. ~~The refund for a member of the St. Paul Teachers Retirement Fund Association shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of six percent compounded annually. The refund for a member of the Duluth Teachers Retirement Fund Association shall must be equal to the coordinated member's accumulated employee contributions plus interest at the rate of six percent compounded annually to July 1, 2010, if the person is a former member of the Duluth Teachers Retirement Fund Association, or to July 1, 2011, if the person is a former member of the St. Paul Teachers Retirement Fund Association, and four percent per annum compounded annually thereafter.~~

**Subd. 5. Unclaimed minimal refund amounts; disposition.** If a coordinated member ceases to render teaching services for the school district in which the teachers retirement fund association is located but does not apply for a refund pursuant to under subdivision 1 within five years after the end of the plan year next following the cessation of teaching services and if the amount of the refund that the former coordinated member would have been entitled to pursuant to under subdivision 3 is \$500 or less, then the amount of the refund and any accumulated interest ~~shall~~ must be credited to and become a part of the retirement fund. If the former coordinated member subsequently renders teaching services for the school district in which the teachers retirement fund association is located and the amount of the refund that the former coordinated member would have previously been entitled to pursuant to under subdivision 3 is at least \$5, then the amount of the refund and any accumulated interest ~~shall be~~ must be restored to the member's individual account. If the amount of the refund that the former coordinated member would have previously been entitled to pursuant to under subdivision 3 is at least \$5 and the former coordinated member applies for a refund pursuant to under subdivision 1 or for an annuity pursuant to under sections 354A.31 and 354A.32 or section 356.30, the amount of the refund and any accumulated interest ~~shall~~ must be restored to the member's individual account.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 12. Minnesota Statutes 2010, section 354B.21, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** The following persons are eligible to have coverage by the individual retirement account plan ~~and to be participants in the~~ or coverage by another plan as further specified in this section:

- (1) employees of the board who are employed as faculty in an employment classification included in the state university instructional unit or the state college instructional unit under section 179A.10, subdivision 2;
- (2) the chancellor and employees of the board in eligible unclassified administrative positions;
- (3) the employees in eligible unclassified administrative positions in the state universities;
- (4) the employees in eligible unclassified administrative positions in the technical colleges; and
- (5) the employees in eligible unclassified administrative positions of the Minnesota Office of Higher Education or of the community colleges.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 13. Minnesota Statutes 2010, section 354B.21, is amended by adding a subdivision to read:

Subd. 1a. **Required notice; counseling.** (a) No later than 90 days before the end of any applicable election period specified in this section, the employer must provide to a person beginning work in a position subject to this section for which an option to elect alternative retirement plan coverage is authorized the following information:

- (1) the default retirement coverage;
- (2) election procedures, if applicable, for electing coverage other than the default coverage; and
- (3) the Web site and the telephone number for the plan providing default coverage and comparable information for the plan which the person is eligible to elect.

(b) The election of coverage forms must include a certification statement that the employee has received and reviewed materials on the optional coverage and the default coverage prior to making the election.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 14. Minnesota Statutes 2010, section 354B.21, subdivision 2, is amended to read:

Subd. 2. **Coverage; election.** (a) ~~An eligible persons who were employed by the Minnesota State Colleges and Universities System on or after June 30, 2009, unless otherwise~~ person employed by the board has the default coverage specified in subdivision 3, or other subdivisions of this section, whichever is applicable, and retains that coverage for the period of covered employment unless a timely election to change that coverage is made as specified in this section, are.

(b) An eligible person under subdivision 3, paragraph (b) or (c), is authorized to elect prospective Teachers Retirement Association plan coverage rather than.

(c) An eligible person under subdivision 3, paragraph (d), is authorized to elect prospective coverage by the plan established by this chapter.

~~(d) The election of prospective Teachers Retirement Association plan coverage under paragraph (a) must be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. Except as specified in paragraph (f), all elections are irrevocable. Before making an election, the eligible person is covered by the plan indicated as default coverage under subdivision 3.~~

~~(b) (e) Except as provided in paragraph (e) (f), a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and Universities system employment occurring before the election under paragraph (a) this section is prohibited.~~

~~(e) (f) Notwithstanding other paragraphs (a) and (b) in this subdivision, a faculty member who is a member of the individual retirement account plan who first achieves tenure or its equivalent at a Minnesota state college or university after June 30, 2009, may elect to transfer retirement coverage under to the teachers retirement plan within one year of the faculty member first achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source. The retirement coverage transfer and service credit purchase authority under this paragraph expires with respect to any Minnesota State Colleges and Universities System faculty initially hired after June 30, 2014.~~

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 15. Minnesota Statutes 2010, section 354B.21, subdivision 3, is amended to read:

Subd. 3. **Default coverage.** (a) Prior to making an election under subdivision 2, or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the ~~following retirement coverage specified in this subdivision applies:~~

~~(1) for employees of the board who are employed in faculty positions in the technical colleges, in the state universities or in the community colleges, the retirement coverage is by the plan established by this chapter;~~

~~(2) for employees of the board who are employed in faculty positions in the technical colleges, the retirement coverage is by the plan established by this chapter unless on June 30, 1997, the~~

~~employee was a member of the Teachers Retirement Association established under chapter 354 and then the retirement coverage is by the Teachers Retirement Association, or, unless the employee was a member of a first class city teacher retirement fund established under chapter 354A on June 30, 1995, and then the retirement coverage is by the Duluth Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995, or the Teachers Retirement Association if the person was a member of the former Minneapolis Teachers Retirement Fund Association on June 30, 1995, or the St. Paul Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995; and~~

~~(3) for employees of the board who are employed in eligible unclassified administrative positions, the retirement coverage is by the plan established by this chapter.~~

~~(b) If an employee fails to correctly certify prior membership in the Teachers Retirement Association to the Minnesota State colleges and Universities system, the system shall not pay interest on employee contributions, employer contributions, and additional employer contributions to the Teachers Retirement Association under section 354.52, subdivision 4.~~

(b) If an eligible person is employed by the board before July 1, 2011, in an eligible unclassified administrative position or in a faculty position in a technical college, community college, or state university, the retirement coverage is by the plan established by this chapter, unless otherwise specified in this section.

(c) An eligible person described in paragraph (b), except that first employment by the board is on or after July 1, 2011, has retirement coverage by the plan established by this chapter if the eligible person has no:

(1) allowable service credit in any plan listed in section 356.30, subdivision 3; or

(2) prior employment covered by the state unclassified employees retirement program under chapter 352D.

(d) An eligible person described in paragraph (c) has retirement coverage by the Teachers Retirement Association if the person has:

(1) prior employment covered by the state unclassified employees retirement program under chapter 352D and has not withdrawn or transferred assets from that account; or

(2) allowable service credit in a plan listed in section 356.30, subdivision 3.

(e) To ensure that coverage is provided by the proper plan, the employee must certify to the board the existence of any service credit in any plan listed in section 356.30, subdivision 3, or whether the person retains a state unclassified employees retirement program account. If an employee fails to correctly certify prior membership in a plan or the existence of an unclassified program account, the Minnesota State Colleges and Universities system and its board shall be held harmless, and notwithstanding any law to the contrary, any resulting cost or financial liability becomes the employee's responsibility.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 16. Minnesota Statutes 2010, section 354B.21, subdivision 3a, is amended to read:

Subd. 3a. **Continuation of Plan coverage in and election; certain instances past service**



**technical college faculty.** ~~For a person with retirement coverage by a first class city teacher retirement fund association instead of the individual retirement account plan under subdivision 3, clause (2), coverage by the applicable retirement fund association continues (a) Notwithstanding subdivision 3, if an employee of the board was employed in a faculty position in a technical college on June 30, 1997, with coverage by the Teachers Retirement Association, the employee retains that coverage. If the employee was a technical college faculty member on June 30, 1995, covered by a first class city teacher retirement fund established under chapter 354A, the retirement coverage continues with the Duluth Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association, whichever is applicable. If the person was a technical college faculty member on June 30, 1995, covered by the former Minneapolis Teachers Retirement Fund Association, the Teachers Retirement Association shall provide coverage.~~

(b) ~~An employee under paragraph (a) who has coverage by a first class city teacher fund association retains that coverage for the duration of the person's employment by the board of Trustees of the Minnesota State Colleges and Universities unless, within 90 days one year of a change in employment within the Minnesota State Colleges and Universities system, the person elects the individual retirement account plan for all future employment by the board of Trustees of the Minnesota State Colleges and Universities. The election is irrevocable.~~

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 17. Minnesota Statutes 2010, section 354B.21, subdivision 5, is amended to read:

Subd. 5. **Payment for certain prior uncovered service.** (a) A person employed in a faculty position or in an eligible unclassified administrative position by the board who was initially excluded from participation in the individual retirement account plan coverage, who was not covered by any other Minnesota public pension plan for that service, and who is subsequently eligible to participate in the individual retirement account plan may make member contributions for that period of prior uncovered teaching employment or eligible unclassified administrative employment with the board.

(b) The member contributions for prior uncovered board service are the amount that the person would have paid if the prior service had been covered employment. The payment must be made to the individual retirement account plan administrator and may be made only by payroll deduction. The payment must be made by the later of:

- (1) 45 days of the start of covered employment; or
- (2) the end of the fiscal year in which covered employment began.

(c) The board must contribute an amount to match any contribution made by a plan participant under this subdivision.

(d) Payments of contributions for prior uncovered board service under this subdivision must be invested in the same manner as the regular contributions made by or on behalf of the plan participant.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 18. Minnesota Statutes 2010, section 354B.21, subdivision 6, is amended to read:

Subd. 6. **Continuation of coverage.** Except as otherwise specified in this section, once a person is employed in a position that qualifies for participation in the individual retirement account plan

and elects to participate in the plan, all subsequent service by the person as a faculty member or in an eligible unclassified administrative position employed by the board or other employing unit is covered by the individual retirement account plan.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 19. Minnesota Statutes 2010, section 354B.21, is amended by adding a subdivision to read:

**Subd. 7. Coverage; certain part-time employees.** A person employed in a part-time faculty position or in a part-time eligible unclassified administrative position who does not meet the definition of covered employment under section 354B.20, subdivision 4, because the employment does not meet the threshold required under that provision, must certify prior membership in the Teachers Retirement Association to the Minnesota State Colleges and Universities system. If the certification is incorrect, the employee, and not the employer, is required to pay interest on the employee and employer contributions, and, if applicable, on the employer additional contributions to the Teachers Retirement Association under section 354.52, subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 20. Minnesota Statutes 2010, section 356.47, subdivision 3, is amended to read:

**Subd. 3. Payment.** (a) Beginning one year after the reemployment withholding period ends relating to the reemployment that gave rise to the limitation, and the filing of a written application, the retired member is entitled to the payment, in a lump sum, of the value of the person's amount under subdivision 2, plus annual compound interest. For the general state employees retirement plan, the correctional state employees retirement plan, the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, the local government correctional employees retirement plan, and the teachers retirement plan, the annual interest rate is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until January 1, 2011, whichever is earlier, and no interest after January 1, 2011. For the Duluth Teachers Retirement Fund Association, the annual interest is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until June 30, 2010, whichever is earlier, and with no interest accrual after June 30, 2010. For the St. Paul Teachers Retirement Fund Association, the annual interest is the rate of six percent from the date that the amount was deducted from the retirement annuity to the date of payment or June 30, 2011, whichever is earlier, and with no interest accrual after June 30, 2011.

(b) The written application must be on a form prescribed by the chief administrative officer of the applicable retirement plan.

(c) If the retired member dies before the payment provided for in paragraph (a) is made, the amount is payable, upon written application, to the deceased person's surviving spouse, or if none, to the deceased person's designated beneficiary, or if none, to the deceased person's estate.

(d) In lieu of the direct payment of the person's amount under subdivision 2, on or after the payment date under paragraph (a), if the federal Internal Revenue Code so permits, the retired member may elect to have all or any portion of the payment amount under this section paid in the form of a direct rollover to an eligible retirement plan as defined in section 402(c) of the federal Internal Revenue Code that is specified by the retired member. If the retired member dies with a balance remaining payable under this section, the surviving spouse of the retired member, or if

none, the deceased person's designated beneficiary, or if none, the administrator of the deceased person's estate may elect a direct rollover under this paragraph.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 21. **BYLAW AUTHORIZATION.**

Consistent with the requirements of Minnesota Statutes, section 354A.12, subdivision 4, the board of the St. Paul Teachers Retirement Fund Association is authorized to revise the bylaws and articles of incorporation so that the requirements of this act, where applicable, apply to the basic program.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 22. **REPEALER.**

(a) Minnesota Statutes 2010, section 354A.29, subdivision 3, is repealed.

(b) Minnesota Statutes 2010, sections 354B.21, subdivision 3c; and 354B.32, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

### ARTICLE 3

#### ACTUARIAL ASSUMPTION UPDATE

Section 1. Minnesota Statutes 2010, section 356.215, subdivision 8, is amended to read:

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5

Minneapolis Police Relief Association	6.0	6.0
Fairmont Police Relief Association	5.0	5.0
Minneapolis Fire Department Relief Association	6.0	6.0
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

(b) Before July 1, 2010, the actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
legislators retirement plan	5.0%
judges retirement plan	4.0
Minneapolis Police Relief Association	4.0
Fairmont Police Relief Association	3.5
Minneapolis Fire Department Relief Association	4.0
Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0

(2) age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

plan	future salary increase assumption
<del>general state employees retirement plan</del>	<del>select calculation and assumption A</del>
correctional state employees retirement plan	assumption <u>G D</u>
State Patrol retirement plan	assumption <u>F C</u>
<del>public employees police and fire fund retirement plan</del>	<del>assumption B</del>
local government correctional service retirement plan	assumption <u>F C</u>
<del>teachers retirement plan</del>	<del>assumption C</del>
Duluth teachers retirement plan	assumption <u>D A</u>
St. Paul teachers retirement plan	assumption <u>E B</u>

The select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated select period is five years and the designated integer is five for the general state employees

retirement plan. The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, ~~the public employees police and fire plan,~~ and the local government correctional service retirement plan; (2) 0.6 percent for the general state employees retirement plan; and (3) 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.

The ultimate future salary increase assumption is:

age	A	B	C	D	E	F	G
16	5.95%	11.00%	7.70%	8.00%	6.90%	7.7500%	7.2500%
17	5.90	11.00	7.65	8.00	6.90	7.7500	7.2500
18	5.85	11.00	7.60	8.00	6.90	7.7500	7.2500
19	5.80	11.00	7.55	8.00	6.90	7.7500	7.2500
20	5.75	11.00	5.50	6.90	6.90	7.7500	7.2500
21	5.75	11.00	5.50	6.90	6.90	7.1454	6.6454
22	5.75	10.50	5.50	6.90	6.90	7.0725	6.5725
23	5.75	10.00	5.50	6.85	6.85	7.0544	6.5544
24	5.75	9.50	5.50	6.80	6.80	7.0363	6.5363
25	5.75	9.00	5.50	6.75	6.75	7.0000	6.5000
26	5.75	8.70	5.50	6.70	6.70	7.0000	6.5000
27	5.75	8.40	5.50	6.65	6.65	7.0000	6.5000
28	5.75	8.10	5.50	6.60	6.60	7.0000	6.5000
29	5.75	7.80	5.50	6.55	6.55	7.0000	6.5000
30	5.75	7.50	5.50	6.50	6.50	7.0000	6.5000
31	5.75	7.30	5.50	6.45	6.45	7.0000	6.5000
32	5.75	7.10	5.50	6.40	6.40	7.0000	6.5000
33	5.75	6.90	5.50	6.35	6.35	7.0000	6.5000
34	5.75	6.70	5.50	6.30	6.30	7.0000	6.5000
35	5.75	6.50	5.50	6.25	6.25	7.0000	6.5000
36	5.75	6.30	5.50	6.20	6.20	6.9019	6.4019
37	5.75	6.10	5.50	6.15	6.15	6.8074	6.3074
38	5.75	5.90	5.40	6.10	6.10	6.7125	6.2125
39	5.75	5.70	5.30	6.05	6.05	6.6054	6.1054
40	5.75	5.50	5.20	6.00	6.00	6.5000	6.0000

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[62ND DAY

41	5.75	5.40	5.10	5.90	5.95	6.3540	5.8540
42	5.75	5.30	5.00	5.80	5.90	6.2087	5.7087
43	5.65	5.20	4.90	5.70	5.85	6.0622	5.5622
44	5.55	5.10	4.80	5.60	5.80	5.9048	5.4078
45	5.45	5.00	4.70	5.50	5.75	5.7500	5.2500
46	5.35	4.95	4.60	5.40	5.70	5.6940	5.1940
47	5.25	4.90	4.50	5.30	5.65	5.6375	5.1375
48	5.15	4.85	4.50	5.20	5.60	5.5822	5.0822
49	5.05	4.80	4.50	5.10	5.55	5.5404	5.0404
50	4.95	4.75	4.50	5.00	5.50	5.5000	5.0000
51	4.85	4.75	4.50	4.90	5.45	5.4384	4.9384
52	4.75	4.75	4.50	4.80	5.40	5.3776	4.8776
53	4.65	4.75	4.50	4.70	5.35	5.3167	4.8167
54	4.55	4.75	4.50	4.60	5.30	5.2826	4.7826
55	4.45	4.75	4.50	4.50	5.25	5.2500	4.7500
56	4.35	4.75	4.50	4.40	5.20	5.2500	4.7500
57	4.25	4.75	4.50	4.30	5.15	5.2500	4.7500
58	4.25	4.75	4.60	4.20	5.10	5.2500	4.7500
59	4.25	4.75	4.70	4.10	5.05	5.2500	4.7500
60	4.25	4.75	4.80	4.00	5.00	5.2500	4.7500
61	4.25	4.75	4.90	3.90	5.00	5.2500	4.7500
62	4.25	4.75	5.00	3.80	5.00	5.2500	4.7500
63	4.25	4.75	5.10	3.70	5.00	5.2500	4.7500
64	4.25	4.75	5.20	3.60	5.00	5.2500	4.7500
65	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
66	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
67	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
68	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
69	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
70	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
71	4.25		5.20				

(3) service-related ultimate future salary increase assumption

<u>general state employees retirement plan of the Minnesota State Retirement System</u>	<u>assumption A</u>
<u>general employees retirement plan of the Public Employees Retirement Association</u>	<u>assumption B</u>
<u>Teachers Retirement Association</u>	<u>assumption C</u>
<u>public employees police and fire retirement plan</u>	<u>assumption D</u>

service length	<del>general employees retirement plan of the Public Employees Retirement Association</del>		<u>B</u>	<u>C</u>	<u>D</u>
	<u>Retirement Association A</u>				
1	<del>12.03%</del> <u>10.75%</u>		<u>12.25%</u>	<u>12.00%</u>	<u>13.00%</u>
2	<del>8.90</del> <u>8.35</u>		<u>9.15</u>	<u>9.00</u>	<u>11.00</u>
3	<del>7.46</del> <u>7.15</u>		<u>7.75</u>	<u>8.00</u>	<u>9.00</u>
4	<del>6.58</del> <u>6.45</u>		<u>6.85</u>	<u>7.50</u>	<u>8.00</u>
5	<del>5.97</del> <u>5.95</u>		<u>6.25</u>	<u>7.25</u>	<u>6.50</u>
6	<del>5.52</del> <u>5.55</u>		<u>5.75</u>	<u>7.00</u>	<u>6.10</u>
7	<del>5.16</del> <u>5.25</u>		<u>5.45</u>	<u>6.85</u>	<u>5.80</u>
8	<del>4.87</del> <u>4.95</u>		<u>5.15</u>	<u>6.70</u>	<u>5.60</u>
9	<del>4.63</del> <u>4.75</u>		<u>4.85</u>	<u>6.55</u>	<u>5.40</u>
10	<del>4.42</del> <u>4.65</u>		<u>4.65</u>	<u>6.40</u>	<u>5.30</u>
11	<del>4.24</del> <u>4.45</u>		<u>4.45</u>	<u>6.25</u>	<u>5.20</u>
12	<del>4.08</del> <u>4.35</u>		<u>4.35</u>	<u>6.00</u>	<u>5.10</u>
13	<del>3.94</del> <u>4.25</u>		<u>4.15</u>	<u>5.75</u>	<u>5.00</u>
14	<del>3.82</del> <u>4.05</u>		<u>4.05</u>	<u>5.50</u>	<u>4.90</u>
15	<del>3.70</del> <u>3.95</u>		<u>3.95</u>	<u>5.25</u>	<u>4.80</u>
16	<del>3.60</del> <u>3.85</u>		<u>3.85</u>	<u>5.00</u>	<u>4.80</u>
17	<del>3.51</del> <u>3.75</u>		<u>3.75</u>	<u>4.75</u>	<u>4.80</u>
18	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>4.50</u>	<u>4.80</u>
19	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>4.25</u>	<u>4.80</u>
20	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>4.00</u>	<u>4.80</u>
21	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>3.90</u>	<u>4.70</u>
22	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>3.80</u>	<u>4.60</u>
23	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>3.70</u>	<u>4.50</u>
24	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>3.60</u>	<u>4.50</u>
25	<del>3.50</del> <u>3.75</u>		<u>3.75</u>	<u>3.50</u>	<u>4.50</u>

26	<del>3.50</del> <u>3.75</u>	<u>3.75</u>	<u>3.50</u>	<u>4.50</u>
27	<del>3.50</del> <u>3.75</u>	<u>3.75</u>	<u>3.50</u>	<u>4.50</u>
28	<del>3.50</del> <u>3.75</u>	<u>3.75</u>	<u>3.50</u>	<u>4.50</u>
29	<del>3.50</del> <u>3.75</u>	<u>3.75</u>	<u>3.50</u>	<u>4.50</u>
30 or more	<del>3.50</del> <u>3.75</u>	<u>3.75</u>	<u>3.50</u>	<u>4.50</u>

(c) Before July 2, 2010, the actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
<u>general state employees retirement plan of the Minnesota State Retirement System</u>	<del>4.50%</del> <u>3.75%</u>
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00
general employees retirement plan of the Public Employees Retirement Association	<del>4.00</del> <u>3.75</u>
public employees police and fire retirement plan	<del>4.50</del> <u>3.75</u>
local government correctional service retirement plan	4.50
teachers retirement plan	<del>4.50</del> <u>3.75</u>
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

(d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

**EFFECTIVE DATE.** This section as it relates to the general state employees retirement plan of the Minnesota State Retirement System, the general employees retirement plan of the Public Employees Retirement Association, and the teachers retirement plan is effective retroactively from June 30, 2010, and as it relates to the public employees police and fire retirement plan is effective June 30, 2011.



**ARTICLE 4****VOLUNTEER FIREFIGHTER RELIEF ASSOCIATIONS****Section 1. DEADLINE FOR REPORTS EXTENDED.**

Notwithstanding Minnesota Statutes, section 69.051, subdivision 1b, the deadline for reports submitted under Minnesota Statutes, section 69.051, subdivisions 1 and 1a, for 2009 is extended to April 30, 2011. A municipality or relief association does not forfeit its 2010 state aid or any future state aid if 2009 reports are received by the state auditor on or before April 30, 2011.

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

**Sec. 2. WHITE BEAR LAKE; SPECIAL ACTUARIAL WORK AUTHORIZATION.**

Notwithstanding any provision to the contrary of Minnesota Statutes, sections 69.771, subdivision 3; 69.773, subdivisions 2, 4, and 5; 356.215; and 356.216, a document styled as an interim valuation at October 19, 2009, of the White Bear Lake Volunteer Fire Department Relief Association prepared by the actuarial consulting firm of Gabriel, Roeder, Smith & Company, as confirmed as to its funded status results by an actuarial valuation as of January 1, 2011, of the White Bear Lake Volunteer Fire Department Relief Association pension plan prepared by the actuarial consulting firm of Gabriel, Roeder, Smith & Company may be considered by the relief association officers, the city of White Bear Lake, and the Office of the State Auditor to be a qualifying actuarial valuation of the special fund of the relief association for the determination of the actuarial condition of the relief association and the financial requirements of the relief association amounts and the minimum municipal obligation amounts calculated by relief association officers certified to the city of White Bear Lake on or before August 1, 2009, and on or before August 1, 2010, may be considered by the City of White Bear Lake and by the Office of the State Auditor to be properly determined.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective retroactively from July 31, 2009, if the White Bear Lake city council and the White Bear Lake chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

**ARTICLE 5****SMALL GROUP RETIREMENT PROVISIONS****Section 1. PERA-GENERAL; BABBITT AND BUHL SERVICE AND SALARY CREDIT PURCHASE AUTHORIZATION IN CERTAIN CASES.**

(a) An eligible person described in paragraph (b) is eligible to purchase from the general employees retirement plan of the Public Employees Retirement Association allowable service credit and salary credit for the period of uncredited prior employment and salary specified in paragraph (c) by making the payment required under paragraph (d).

(b) An eligible person is a person who:

(1) was born on November 10, 1957;

(2) was employed as a part-time police officer by the city of Buhl from July 1988 until November 1996;

(3) was employed as a part-time police officer by Embarrass Township from March 1992 until August 1997;

(4) was employed as a part-time police officer by the City of Babbitt from April 1992 until September 1992; and

(5) was employed as a full-time police officer by the city of Babbitt since October 4, 1992, and as such is a member of the public employees police and fire retirement plan.

(c) The periods of unreported employment and salary that qualified for coverage by the general employees retirement plan of the Public Employees Retirement Association and eligible for purchase are employment by the city of Buhl from October 1989 until November 1996 and employment by the city of Babbitt as a part-time police officer from April 1992 until September 1992.

(d) The allowable service and salary credit purchase payment amount must be calculated under Minnesota Statutes, section 356.551. Of the total payment amount, the eligible person is obligated to pay the amount of member contributions that the eligible person would have paid by deduction to the coordinated program of the general employees retirement plan of the Public Employees Retirement Association if made in a timely fashion, plus annual compound interest at the rate of 8.5 percent from the date that the contribution should have been made until the date that the contribution equivalent payment is made. The balance of the total payment amount must be allocated between the city of Buhl and the city of Babbitt on the basis of the additional retirement benefit associated with the applicable period of past unreported eligible employment. The city of Buhl and the city of Babbitt shall make their payments within 30 days of the date on which the executive director of the Public Employees Retirement Association certifies that the eligible person has paid the equivalent member contribution payment and interest. If a city fails to make a timely payment, the executive director shall collect the unpaid amount under Minnesota Statutes, section 353.28.

(e) The eligible person shall provide the executive director of the Public Employees Retirement Association with any necessary documentation of the applicability of this section that the executive director requests.

(f) The authority of the eligible person to make the equivalent member contribution and interest payment under this section expires on the earlier of July 1, 2012, or the date on which the eligible person finally terminates public employment covered by Minnesota Statutes, chapter 353.

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

**Sec. 2. INDEPENDENT SCHOOL DISTRICT NO. 270, HOPKINS; SALARY CREDIT PURCHASE FOR PART-TIME TEACHING PROGRAM SERVICE AUTHORIZED.**

(a) An eligible person described in paragraph (b) is entitled, upon application to the executive director of the Teachers Retirement Association, to purchase salary credit from the Teachers Retirement Association for the period of part-time teaching service specified in paragraph (c) if the purchase payment required under paragraph (d) is paid on or before July 1, 2012, or the date of the person's retirement, whichever is earlier.

(b) An eligible person is a person who:

(1) was born on January 20, 1951;

(2) was hired by Independent School District No. 270, Hopkins, as a teacher;

(3) first participated in the qualified part-time teacher association membership program with a properly submitted teacher-school district agreement for the 2007-2008 school year;

(4) was employed part-time as a teacher by Independent School District No. 270, Hopkins, during the 2008-2009 school year, but the Minnesota Statutes, section 354.66, agreement was not filed with the Teachers Retirement Association until September 20, 2010; and

(5) was employed by Independent School District No. 270, Hopkins, as a part-time teacher under Minnesota Statutes, section 354.66, for the 2009-2010 school year and for the 2010-2011 school year.

(c) The period of part-time teaching service is the period during the 2008-2009 school year during which the eligible person was paid 80 percent of the eligible person's full-time service salary rate for part-time teaching service rendered for Independent School District No. 270, Hopkins.

(d) The total purchase payment amount for the increase in the annual salary credit for the 2008-2009 school year of \$11,090.60 in the employ of Independent School District No. 270, Hopkins, is the service credit purchase payment amount required under Minnesota Statutes, section 356.551. The eligible person shall pay \$609.98 plus compound interest at the annual rate of 8.5 percent from January 31, 2009, until the date of payment. Independent School District No. 270, Hopkins, must pay the balance of the purchase payment amount under Minnesota Statutes, section 356.551, in excess of the eligible person's payment amount. The school district payment is due 30 days after notification by the executive director of the Teachers Retirement Association that the eligible person's payment amount has been received by the association. If the school district fails to make the required payment in a timely manner, the executive director of the Teachers Retirement Association shall notify the commissioner of management and budget and the commissioner of education of that failure and those commissioners shall subtract the unpaid amount from and state aid otherwise payable to the school district.

(e) Upon receipt by the Teachers Retirement Association of the total amount required under paragraph (d), the eligible person shall receive annual salary credit for an additional \$11,090.60 for the 2008-2009 school year.

(f) The salary credit purchase payment authorization under this section expires August 1, 2012.

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

## ARTICLE 6

### VOLUNTARY CONSOLIDATION OF THE MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2010, section 353.01, is amended by adding a subdivision to read:

Subd. 10a. **Unit value; Minneapolis firefighters.** "Unit value," for a member of the public employees police and fire retirement plan who was a member of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, is \$82.32 for calendar year 2011, \$104.651 for calendar year 2012, \$109.011 for calendar year 2013, \$114.825 for calendar year 2014, \$124.031 for calendar year 2015, and for calendar years after calendar year

2015, the prior year's unit value plus an increase equal to the adjustment percentage determined under section 356.415, subdivision 1c, effective for the January 1 of the calendar year.

Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 16, is amended to read:

Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee deductions were withheld from salary and contributions were made at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under sections 353.27, subdivision 12, and 353.35;

(3) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(4) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(5) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary, excluding overtime pay, that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(7) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary

or seasonal layoff;

(8) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service with the same governmental subdivision upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service must be credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary, excluding overtime pay, during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate, excluding overtime pay, during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 30 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under subdivision 40.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief

association that has consolidated with the Public Employees Retirement Association under chapter 353A or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable allowable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes. For an active member who was an active member of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, "allowable service" is the period of service credited by the Minneapolis Firefighters Relief Association as reflected in the transferred records of the association up to the effective date of consolidation under section 19 and the period of service credited under paragraph (a), clause (1), after the effective date of consolidation under section 19.

(e) MS 2002 [Expired]

Sec. 3. Minnesota Statutes 2010, section 353.03, is amended by adding a subdivision to read:

Subd. 3b. **Additional duties.** The executive director shall deduct from the annuity or benefit periodically the amount of any dues of any fraternal organization continuing or established after the effective date of consolidation under section 19 for former members of the former Minneapolis Firefighters Relief Association.

Sec. 4. Minnesota Statutes 2010, section 353.65, subdivision 1, is amended to read:

Subdivision 1. **Fund established.** (a) The public employees police and fire fund is established for police officers and firefighters who meet the eligibility criteria under section 353.64.

(b) Employee contributions other than those made under subdivision 2, paragraph (b), employer contributions under subdivision 3 and under section 353.667, subdivision 6, other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), and other amounts authorized by law, including all employee and employer contributions of members transferred, must be deposited in the public employees police and fire fund.

Sec. 5. Minnesota Statutes 2010, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For members other than members who were active members of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, the employee contribution is 9.4 percent of the salary of the member in calendar year 2010 and is 9.6 percent of the salary of the member in each calendar year after 2010. ~~This contribution~~

(b) For members who were active members of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, the employee contribution is an amount equal to eight percent of the monthly unit value under section 353.01, subdivision 10a, multiplied by 80 and expressed as a biweekly amount for each member. The employee contribution made by a member with at least 25 years of service credit as an active member of the former Minneapolis Firefighters Relief Association must be deposited in the postretirement health care savings account established under 352.98.

(c) Contributions under this section must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

Sec. 6. Minnesota Statutes 2010, section 353.65, subdivision 3, is amended to read:

**Subd. 3. Employer contribution.** (a) With respect to members other than members who were active members of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, the employer contribution is 14.1 percent of the salary of the member in calendar year 2010 and is 14.4 percent of the salary of the member in each calendar year after 2010. This contribution

(b) With respect to members who were active members of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under section 19, the employer contribution is an amount equal to the amount of the member contributions under subdivision 2, paragraph (b).

(c) Contributions under this subdivision must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Sec. 7. Minnesota Statutes 2010, section 353.651, subdivision 1, is amended to read:

Subdivision 1. **Age and allowable service requirements.** Upon separation from public service, any police officer or firefighter member, other than a firefighter covered by section 353.6511, who has attained the age of at least 55 years and who is vested under section 353.01, subdivision 47, is entitled upon application to a retirement annuity, known as the "normal" retirement annuity.

**Sec. 8. [353.6511] ALTERNATIVE RETIREMENT BENEFIT COVERAGE IN CERTAIN INSTANCES.**

Subdivision 1. Applicability. The alternative benefit coverage under this section applies only to an active member of the public employees police and fire retirement plan who was an active member of the former Minneapolis Firefighters Relief Association on the day prior to the consolidation effective date under section 19 and who retires after the consolidation effective date under section 19.

Subd. 2. Retirement annuity. (a) A member described in subdivision 1, if the member meets the eligibility requirements of paragraph (b), is only entitled to a retirement annuity under this subdivision.

(b) The member, upon application, if the person is at least age 50 and has credit for at least 20 years of allowable service, is entitled to a normal retirement annuity. The normal retirement annuity is the following amount based on the service credit of the retiring member as a Minneapolis firefighter:

<u>completed years of service</u>	<u>retirement annuity amount</u>
<u>15</u>	<u>25.0 units</u>
<u>16</u>	<u>26.6 units</u>
<u>17</u>	<u>28.2 units</u>

<u>18</u>	<u>29.8 units</u>
<u>19</u>	<u>31.4 units</u>
<u>20</u>	<u>35 units</u>
<u>21</u>	<u>36.6 units</u>
<u>22</u>	<u>38.2 units</u>
<u>23</u>	<u>39.8 units</u>
<u>24</u>	<u>41.4 units</u>
<u>25 or more</u>	<u>43.0 units</u>

(c) For a retired member who was unmarried on September 1, 1997, and also on October 25, 2001, who had 25 years of service credit as of October 25, 2001, and submitted a valid application for the alternative service pension under section 423C.05, subdivision 9, the retirement annuity amount is 43.3 units.

Subd. 3. **Disability benefit.** A member described in subdivision 1, if the member is disabled under section 353.01, subdivision 41 or 46, is entitled to a disability benefit equal to 41 units.

Subd. 4. **Surviving spouse benefit.** A surviving spouse under section 353.01, subdivision 20, of a deceased member described in subdivision 1 is entitled to a surviving spouse benefit equal to 23 units.

Subd. 5. **Surviving dependent child benefit.** A surviving dependent child under section 353.01, subdivision 15a, of a deceased member described in subdivision 1 is entitled to a surviving child benefit equal to eight units.

Subd. 6. **Surviving family benefit maximum.** The surviving spouse and surviving dependent child under subdivisions 4 and 5 are entitled to a combined family benefit under subdivisions 4 and 5 of 43 units.

Subd. 8. **Postretirement adjustments.** (a) Effective on the first day of the month next following the effective date of the consolidation under section 19, service pensions and survivor benefits in force are entitled to be recomputed with the number of units specified in subdivision 2, subdivision 4, and subdivision 6. Optional annuities under section 423C.05, subdivision 8, also are entitled to be recomputed as the actuarial equivalent of the service pensions and survivor benefits with the number of units specified in subdivision 2, subdivision 4, and subdivision 6. Retirement annuities, service pensions, disability benefits, and survivor benefits after December 31, 2015, are eligible for postretirement adjustments under section 356.415, subdivision 1c. The unit value for the calculation of a retirement annuity first payable after December 31, 2015, is the calendar year 2015 unit value, plus any postretirement adjustment percentage amount under section 356.415, subdivision 1c, payable after December 31, 2015, and before the date of retirement.

Subd. 9. **Savings clause; dispute resolution.** In the event of any dispute by or on behalf of any former member of the consolidating relief association after the effective date of consolidation over the amount of a benefit to which the person may be entitled, the proper interpretation of a provision of this article, or the conformity of the provisions of this article to the provisions of the benefit plan of the consolidating relief association in effective immediately before the date



of the consolidation, the dispute shall be submitted in writing to the Legislative Commission on Pensions and Retirement by the person who is a party to the dispute, by the fraternal organization related to the former relief association, or by the executive director of the Public Employees Retirement Association. The Legislative Commission on Pensions and Retirement shall review the dispute as part of its deliberations on proposed or pending retirement legislation and shall make its recommendation on the resolution of the dispute, if any, to the appropriate committees of the senate and house of representatives with jurisdiction over public employee pension matters in the form of the necessary legislation amending the provisions of this article, which proposed legislation must include retroactivity of any increase in a benefit amount to the date on which the benefit subject to dispute accrued or would have accrued.

Sec. 9. Minnesota Statutes 2010, section 353.656, subdivision 1, is amended to read:

Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the police and fire plan, other than a firefighter covered by section 353.6511, who is determined to qualify for duty disability as defined in section 353.01, subdivision 41, shall receive disability benefits during the period of such disability in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percentage specified under section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

(b) To be eligible for a benefit under paragraph (a), the member must have:

- (1) not met the requirements for a retirement annuity under section 353.651, subdivision 1; or
- (2) met the requirements under that subdivision, but does not have at least 20 years of allowable service credit.

(c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a period of 60 months from the disability benefit accrual date and at the end of that period is subject to provisions of subdivision 5a.

(d) If the disability under this subdivision occurs before the member has at least five years of allowable service credit in the police and fire plan, the disability benefit must be computed on the average salary from which deductions were made for contribution to the police and fire fund.

Sec. 10. Minnesota Statutes 2010, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A member of the police and fire plan, other than a firefighter covered by section 353.6511, whose disabling condition is determined to be a duty disability that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, disability benefits in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to

meet the definition for receipt of a duty disability under section 353.01, subdivision 41, is subject to subdivision 1 upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.

(c) If a member approved for disability benefits under this subdivision dies before attaining normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or within 60 months of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (1), if the death is the direct result of the disabling condition for which disability benefits were approved, or section 353.657, subdivision 2, paragraph (a), clause (2), if the death is not directly related to the disabling condition for which benefits were approved under this subdivision.

(d) If the election of an actuarial equivalent optional annuity is not made at the time the permanent and total disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or having collected total and permanent disability benefits for 60 months, whichever is later. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

Sec. 11. Minnesota Statutes 2010, section 353.656, subdivision 3, is amended to read:

**Subd. 3. Regular disability benefit.** (a) A member of the police and fire plan, other than a firefighter covered by section 353.6511, who qualifies for a regular disability benefit as defined in section 353.01, subdivision 46, is entitled to receive a disability benefit, after filing a valid application, in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a.

(b) To be eligible for a benefit under paragraph (a), the member must have at least one year of allowable service credit and have:

- (1) not met the requirements for a retirement annuity under section 353.651, subdivision 1, or
- (2) met the requirements under that subdivision, but does not have at least 15 years of allowable service credit.

(c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a period of 60 months from the disability benefit accrual date and, at the end of that period, is subject to provisions of subdivision 5a.

(d) For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 12. Minnesota Statutes 2010, section 353.656, subdivision 3a, is amended to read:

**Subd. 3a. Total and permanent regular disability; computation of benefits.** (a) A member of the police and fire plan, other than a firefighter covered by section 353.6511, whose disabling condition is determined to be a regular disability under section 353.01, subdivision 46, that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, a disability benefit in an amount equal to 45 percent of the average salary as defined in section

353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 15 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to meet the definition for receipt of a regular disability under section 353.01, subdivision 46, is subject to subdivision 3 upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.

(c) A member approved for disability benefits under this subdivision may elect to receive a normal disability benefit or an actuarial equivalent optional annuity. If the election of an actuarial equivalent optional annuity is not made at the time the total and permanent disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or having collected disability benefits for 60 months, whichever is later. No surviving spouse benefits are payable if the member dies during the period in which a normal total and permanent disability benefit is being paid. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

Sec. 13. Minnesota Statutes 2010, section 353.657, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) In the event that a member of the police and fire fund, other than a firefighter covered by section 353.6511, dies from any cause before retirement or before becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, as defined in section 353.01, subdivision 20, and to a dependent child or children, as defined in section 353.01, subdivision 15, except that if the death is not a line of duty death, the member must be vested under section 353.01, subdivision 47.

(b) Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The spouse and child or children are entitled to monthly benefits as provided in subdivisions 2 to 4.

**Sec. 14. [353.667] CONSOLIDATION OF THE MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION.**

Subdivision 1. **Membership transfer.** On the effective date of consolidation under section 19, the active, inactive, and retired members of the Minneapolis Firefighters Relief Association are transferred to the public employees police and fire retirement plan, are no longer members of the Minneapolis Firefighters Relief Association, and are members of the public employees police and fire retirement plan.

Subd. 2. **Service credit and benefit liability transfer.** (a) Allowable service credit and base salary credit of the active members of the Minneapolis Firefighters Relief Association, as contained in the records of the Minneapolis Firefighters Relief Association through the day before the effective date of consolidation under section 19, are transferred to the public employees police and fire retirement plan and is credited as provided in section 353.01, subdivisions 10a and 16, paragraph (c), on the effective date of consolidation under section 19.

(b) The liability for the payment of retirement annuities, service pensions, and retirement benefits of the Minneapolis Firefighters Relief Association retired members, service pensioners, disabilitants, and other retirement benefit recipients as specified in the records of the Minneapolis Firefighters Relief Association is transferred to the public employees police and fire retirement plan on the effective date of consolidation under section 19.

Subd. 3. **Transfer of records.** On the effective date of the consolidation under section 19, the chief administrative officer of the Minneapolis Firefighters Relief Association shall transfer all records and documents relating to the special fund of the Minneapolis Firefighters Relief Association to the executive director of the Public Employees Retirement Association. To the extent possible, original copies of all records and documents must be transferred.

Subd. 4. **Transfer of assets; transfer of title to assets.** (a) On the effective date of the consolidation under section 19, the chief administrative officer of the Minneapolis Firefighters Relief Association shall transfer the entire assets of the special fund of the Minneapolis Firefighters Relief Association other than the health insurance account to the public employees police and fire retirement fund at market value. Unless ineligible or inappropriate, the transfer must be in the form of investment securities and must include any accounts receivable that are determined by the State Board of Investment as being capable of being collected. An amount, in cash, must be transferred by the city of Minneapolis equal to the market value recognized by the relief association of investment securities that are determined by the executive director of the State Board of Investment not to be in compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, 11A.23, and 11A.24 or not to be appropriate for retention in light of the established investment objectives of the State Board of Investment or of accounts receivable determined as being incapable of being collected by the executive director of the State Board of Investment. Legal and beneficial title to assets that are determined noncompliant or inappropriate securities or that are uncollectible accounts receivable are transferred to the city of Minneapolis on the effective date of consolidation under section 19. Any accounts payable on the effective date of consolidation under section 19 are an obligation of the public employees police and fire retirement fund and reduce the asset value for purposes of subdivision 6. The transferred assets must be deposited in the public employees police and fire retirement fund. The amount of the transferred health insurance account must remain deposited in the financial institution retained by the former Minneapolis Firefighters Relief Association on May 1, 2011, and that financial institution must act as the custodian of the account. The financial institution shall perform all trustee and fiduciary duties with respect to the account as a condition to the retention of the account. The executive director of the Minneapolis Firefighters Relief Association, prior to the effective date of consolidation, shall estimate three calendar years of the administrative expenses related to the operation of the account and shall prepay those expenses from the account to the financial institution before the effective date of consolidation. After the three-year prepayment period, the beneficiaries of the account are responsible for the payment of the administrative expenses related to the operation of the account.

(b) Upon the transfer of assets to the State Board of Investment under paragraph (a), legal title to those transferred assets vests with the State Board of Investment on behalf of the public employees police and fire retirement plan, and beneficial title to the transferred assets remains with the former membership of the former Minneapolis Firefighters Relief Association.

(c) The public employees police and fire retirement plan and fund is the successor in interest to all claims for or against the Minneapolis Firefighters Relief Association. The public employees police and fire retirement plan and fund is not liable for any claim against the Minneapolis Firefighters Relief Association, its governing board, or its administrative staff acting in a fiduciary capacity, under chapter 356A or common law, which is founded upon a claim of a breach of fiduciary duty if the act or acts constituting the claimed breach were not undertaken in good faith. The public employees police and fire retirement plan may assert any applicable defense to any claim in any judicial or administrative proceeding that the Minneapolis Firefighters Relief Association, its board, or its administrative staff would otherwise have been entitled to assert, and the public employees police and fire retirement plan may assert any applicable defense that it has in its capacity as a statewide agency.

(d) The Public Employees Retirement Association shall indemnify any former fiduciary of the Minneapolis Firefighters Relief Association consistent with the provisions of section 356A.11. The indemnification may be effected by the purchase by the Public Employees Retirement Association of reasonable fiduciary liability tail insurance for the officers and directors of the former Minneapolis Firefighters Relief Association. Consistent with section 69.80, the relief association may purchase reasonable fiduciary liability tail insurance for its officers and directors prior to the effective date of consolidation under section 19.

(e) Office equipment and other physical assets of the special fund of the Minneapolis Firefighters Relief Association that are not needed by the Public Employees Retirement Association may be sold by the special fund of the Minneapolis Firefighters Relief Association to the general fund of the Minneapolis Firefighters Relief Association or to any successor fraternal organization of the Minneapolis Firefighters Relief Association at fair market value, with the proceeds of that sale deposited in the public employees police and fire retirement fund and included in the transferred asset value under subdivision 6.

Subd. 5. **Benefits.** The annuities, service pensions, and other retirement benefits of or attributable to retired, disabled, deferred, or inactive Minneapolis Firefighters Relief Association members who had that status as of the day before the effective date of consolidation under section 19 continue after consolidation in the same amount and under the same terms as provided in chapter 423C except that the unit value is governed by section 353.01, subdivision 10a, and the postretirement adjustments after December 31, 2015, must be calculated solely under section 353.6511, subdivision 8.

Subd. 6. **Additional employer contributions.** (a) As of the effective date of the consolidation under section 19, the approved actuary retained by the Public Employees Retirement Association shall calculate the present value of future benefits of the former Minneapolis Firefighters Relief Association, and, after subtracting the market value of the transferred assets of the former Minneapolis Firefighters Relief Association and the present value of the employer contribution under section 353.65, subdivision 3, paragraph (b), shall calculate the remainder present value of future benefits amount. Annually, following the effective date of consolidation under section 19, the city of Minneapolis shall pay an amount sufficient to amortize on a level annual dollar basis the remainder present value of future benefits amount by December 31, 2031. The amortization

payment is payable annually on July 15, beginning in the year following the effective date of the consolidation. The 2012 payment should be estimated based on the provisions of this legislation. The July 2013 payment shall be adjusted based on the final actuarial valuation.

(b) If the postretirement or preretirement interest rate actuarial assumption applicable to the public employees police and fire retirement plan under section 356.215, subdivision 8, is modified from the rates specified in section 356.215, subdivision 8, the remainder present value of future benefits amount calculation under paragraph (a), updated for the passage of time, must be revised and the amortization contribution by the city of Minneapolis for the balance of the amortization period must be redetermined and certified to the city of Minneapolis.

Subd. 7. **Health and dental insurance program deductions.** The executive director shall withhold any health insurance or dental insurance premiums designated by the annuitant or benefit recipient and shall transfer them to the city of Minneapolis. The Public Employees Retirement Association may charge a necessary and reasonable monthly administrative fee to the city of Minneapolis for this function and bill it in addition to the employer contribution under section 353.65, subdivision 3, paragraph (b). Notwithstanding any provision of chapter 13 to the contrary, the executive director shall provide the city of Minneapolis with the current addresses of former members of the Minneapolis Firefighters Relief Association.

Subd. 8. **Cooperation with fraternal organization.** (a) This subdivision applies if the membership of the former Minneapolis Firefighters Relief Association approves the continuation of the relief association as a fraternal organization under section 16.

(b) The executive director shall cooperate with the Minneapolis firefighters fraternal association to insure adequate communication with the former members of the former Minneapolis Firefighters Relief Association consistent with Public Employees Retirement Association policy.

Subd. 9. **Fire insurance surcharge.** Notwithstanding any provision of section 297I.10 to the contrary, the proceeds of the first class city fire insurance premium tax surcharge with respect to Minneapolis must be paid to the city of Minneapolis to defray a portion of the employer retirement cost under section 353.65, subdivision 3, with respect to Minneapolis firefighters.

Sec. 15. Minnesota Statutes 2010, section 423A.02, subdivision 1b, is amended to read:

Subd. 1b. **Additional amortization state aid.** (a) Annually, on October 1, the commissioner of revenue shall allocate the additional amortization state aid transferred under section 69.021, subdivision 11, to:

(1) all police or salaried firefighters relief associations governed by and in full compliance with the requirements of section 69.77, that had an unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31;

(2) all local police or salaried firefighter consolidation accounts governed by chapter 353A that are certified by the executive director of the public employees retirement association as having for the current fiscal year an additional municipal contribution amount under section 353A.09, subdivision 5, paragraph (b), and that have implemented section 353A.083, subdivision 1, if the effective date of the consolidation preceded May 24, 1993, and that have implemented section 353A.083, subdivision 2, if the effective date of the consolidation preceded June 1, 1995; and

(3) the municipalities that are required to make an additional municipal contribution under

section 353.665, subdivision 8, or 353.667, subdivision 6, for the duration of the required additional contribution.

(b) The commissioner shall allocate the state aid on the basis of the proportional share of the relief association or consolidation account of the total unfunded actuarial accrued liability of all recipient relief associations and consolidation accounts as of December 31, 1993, for relief associations, and as of June 30, 1994, for consolidation accounts.

(c) Beginning October 1, 2000, and annually thereafter, the commissioner shall allocate the state aid, including any state aid in excess of the limitation in subdivision 4, on the following basis:

(1) 64.5 percent to the municipalities to which section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), apply for distribution in accordance with paragraph (b) and subject to the limitation in subdivision 4;

(2) 34.2 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Fire Department Relief Association; and

(3) 1.3 percent to the city of Virginia to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Virginia Fire Department Relief Association.

If there is no unfunded actuarial accrued liability in both the Minneapolis Police Relief Association and the Minneapolis Fire Department Relief Association as disclosed in the most recent actuarial valuations for the relief associations prepared under sections 356.215 and 356.216, the commissioner shall allocate that 34.2 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. If there is no unfunded actuarial accrued liability in the Virginia Fire Department Relief Association as disclosed in the most recent actuarial valuation for the relief association prepared under sections 356.215 and 356.216, the commissioner shall allocate that 1.3 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. Upon the final payment to municipalities required by section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), the commissioner shall allocate that 64.5 percent of the aid as follows: 20 percent to the St. Paul Teachers Retirement Fund Association, 20 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation proposed under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Firefighters Relief Association, 20 percent for the city of Duluth to pay for any costs associated with the police and firefighters pensions, and 40 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. The allocation must be made by the commissioner at the same time and under the same procedures as specified in subdivision 3. With respect to the St. Paul Teachers Retirement Fund Association, annually, beginning on July 1, 2005, if the applicable teacher's association five-year average time-weighted rate of investment return does not equal or exceed the performance of a composite portfolio assumed passively managed (indexed) invested ten percent in cash equivalents, 60 percent in bonds and similar debt

securities, and 30 percent in domestic stock calculated using the formula under section 11A.04, clause (11), the aid allocation to that retirement fund under this section ceases until the five-year annual rate of investment return equals or exceeds the performance of that composite portfolio.

(d) The amounts required under this subdivision are the amounts annually appropriated to the commissioner of revenue under section 69.021, subdivision 11, paragraph (e).

**Sec. 16. MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION; SPECIAL ACTUARIAL VALUATION PENDING CONSOLIDATION.**

(a) On or before August 1, 2011, the approved actuarial consulting firm retained by the Public Employees Retirement Association under Minnesota Statutes, section 356.214, shall prepare an alternative actuarial valuation of the Minneapolis Firefighters Relief Association under Minnesota Statutes, section 356.215, and the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement as of August 11, 2010, using the applicable actuarial assumptions and the applicable amortization target date of the public employee police and fire retirement plan.

(b) The officers of the Minneapolis Firefighters Relief Association shall supply the approved actuary retained by the Public Employees Retirement Association with the financial and demographic data necessary to perform the alternative actuarial valuation.

(c) The alternative actuarial valuation of the Minneapolis Firefighters Relief Association must be filed with the mayor of the city of Minneapolis, with the Minneapolis city coordinator, with the executive director of the Minneapolis Firefighters Relief Association, with the executive director of the Public Employees Retirement Association, with the executive director of the Legislative Commission on Pensions and Retirement, and with the Legislative Reference Library.

(d) The expense of preparing the alternative actuarial valuation must be paid by the city of Minneapolis within 30 days of its certification to the finance director of the city of Minneapolis by the executive director of the Public Employees Retirement Association.

**Sec. 17. TERMINATION OF THE RELIEF ASSOCIATION.**

(a) On the effective date of the consolidation under section 19, the special fund of the Minneapolis Firefighters Relief Association ceases to exist.

(b) The Minneapolis Firefighters Relief Association shall provide for the continuation of the relief association as a fraternal organization other than as a pension or retirement organization and shall approve the changes in its articles of incorporation and bylaws necessary to effect that redesignation and reorganization of the organization.

(c) If the Minneapolis Firefighters Relief Association continues the relief association as a fraternal organization under paragraph (b), the transfer of relief association assets under Minnesota Statutes, section 353.667, subdivision 4, must not include assets of the Minneapolis Firefighters Relief Association general fund, which must be retained by the fraternal organization for organization purposes other than for pension or retirement benefit payment purposes.

(d) As of the effective date of the consolidation under section 19, the employment of the employees of the Minneapolis Firefighters Relief Association terminates. The employees of the Minneapolis Firefighters Relief Association who were employed by the relief association before



May 1, 2011, have an employment preference with the Public Employees Retirement Association equal to that under the veterans preference act.

(e) If, on the day following approval of this article by the Minneapolis city council, the consolidation has been approved by all applicable entities under section 19, the officers of the Minneapolis Firefighters Relief Association shall certify to the city of Minneapolis and to the Hennepin County auditor the financial requirements of the relief association and the minimum municipal obligation under Minnesota Statutes, section 69.77, subdivision 4, revised consistent with the actuarial valuation results under Minnesota Statutes, section 423A.02, subdivision 1b.

(f) After the effective date of consolidation under section 19, the city of Minneapolis shall continue to administer the health and dental insurance programs as constituted on May 1, 2011, for the former members of the former Minneapolis Firefighters Relief Association, transferring premiums as required.

**Sec. 18. REPEALER.**

Minnesota Statutes 2010, sections 423A.021; 423C.01; 423C.02; 423C.03; 423C.04; 423C.05; 423C.06; 423C.07; 423C.08; 423C.09; 423C.10; 423C.11; 423C.12; 423C.13; 423C.14; 423C.15; and 423C.16, are repealed.

**Sec. 19. EFFECTIVE DATE; LOCAL APPROVAL.**

(a) Sections 1 to 16, 17, paragraphs (a) to (d), and 18 are effective December 30, 2011, if the board of trustees of the Minneapolis Firefighters Relief Association approves the article and if a majority of the entire membership of the Minneapolis Firefighters Relief Association voting on the question approves the article, if the chief administrative officer of the Minneapolis Firefighters Relief Association certifies those approvals to the mayor of the city of Minneapolis and the president of the Minneapolis city council before September 15, 2011, if the board of trustees of the Public Employees Retirement Association approves the article, if the executive director of the Public Employees Retirement Association certifies that approval to the mayor of the city of Minneapolis and the president of the Minneapolis city council, if the governing body of the city of Minneapolis and the chief clerical officer of Minneapolis timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, on or before October 15, 2011, or on the date set by the board of trustees of the Public Employees Retirement Association, in consultation with the mayor of the city of Minneapolis and the executive director of the relief association, at the first regular meeting of the Public Employees Retirement Association board of trustees occurring after Minneapolis city council approval if the governing body of the city of Minneapolis and the chief clerical officer of Minneapolis complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after October 15, 2011, and if a comparable consolidation relating to the Minneapolis Police Relief Association is approved by all applicable entities under article 7.

(b) If the approvals occur under paragraph (a) in a timely fashion, section 17, paragraph (e), is effective on the day following approval by the Minneapolis city council.

**ARTICLE 7**

**VOLUNTARY CONSOLIDATION OF THE MINNEAPOLIS POLICE RELIEF ASSOCIATION**

Section 1. Minnesota Statutes 2010, section 353.01, is amended by adding a subdivision to read:

Subd. 10b. **Unit value; Minneapolis police.** "Unit value," for a member of the public employees police and fire retirement plan who was a member of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, is \$86.71 for calendar year 2011, \$104.651 for calendar year 2012, \$109.011 for calendar year 2013, \$114.825 for calendar year 2014, \$124.031 for calendar year 2015, and for calendar years after calendar year 2015, the prior year's unit value plus an increase equal to the adjustment percentage determined under section 356.415, subdivision 1c, effective for the January 1 of the calendar year.

Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 16, is amended to read:

Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee deductions were withheld from salary and contributions were made at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under sections 353.27, subdivision 12, and 353.35;

(3) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(4) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(5) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary, excluding overtime pay, that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(7) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary or seasonal layoff;

(8) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service with the same governmental subdivision upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service must be credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary, excluding overtime pay, during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate, excluding overtime pay, during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 30 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under subdivision 40.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers

and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association under chapter 353A or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable allowable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes. For an active member who was an active member of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, "allowable service" is the period of service credited by the Minneapolis Police Relief Association as reflected in the transferred records of the association up to the effective date of consolidation under section 19 and the period of service credited under paragraph (a), clause (1), after the effective date of consolidation under section 19.

(e) MS 2002 [Expired]

Sec. 3. Minnesota Statutes 2010, section 353.03, is amended by adding a subdivision to read:

Subd. 3b. **Additional duties.** The executive director shall deduct from the annuity or benefit periodically the amount of any dues of any fraternal organization continuing or established after the effective date of consolidation under section 19 for former members of the former Minneapolis Police Relief Association.

Sec. 4. Minnesota Statutes 2010, section 353.65, subdivision 1, is amended to read:

Subdivision 1. **Fund established.** (a) The public employees police and fire fund is established for police officers and firefighters who meet the eligibility criteria under section 353.64.

(b) Employee contributions other than those made under subdivision 2, paragraph (b), employer contributions under subdivision 3 and under section 353.668, subdivision 6, other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), and other amounts authorized by law, including all employee and employer contributions of members transferred, must be deposited in the public employees police and fire fund.

Sec. 5. Minnesota Statutes 2010, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For members other than members who were active members of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, the employee contribution is 9.4 percent of the salary of the member in calendar year 2010 and is 9.6 percent of the salary of the member in each calendar year after 2010. This contribution

(b) For members who were active members of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, the employee contribution is

an amount equal to eight percent of the monthly unit value under section 353.01, subdivision 10b, multiplied by 80 and expressed as a biweekly amount for each member. The employee contribution made by a member with at least 25 years of service credit as an active member of the former Minneapolis Police Relief Association must be deposited in the postretirement health care savings account established under 352.98.

(c) Contributions under this section must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

Sec. 6. Minnesota Statutes 2010, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution.** (a) With respect to members other than members who were active members of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, the employer contribution is 14.1 percent of the salary of the member in calendar year 2010 and is 14.4 percent of the salary of the member in each calendar year after 2010. This contribution

(b) With respect to members who were active members of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under section 19, the employer contribution is an amount equal to the amount of the member contributions under subdivision 2, paragraph (b).

(c) Contributions under this subdivision must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Sec. 7. Minnesota Statutes 2010, section 353.651, subdivision 1, is amended to read:

Subdivision 1. **Age and allowable service requirements.** Upon separation from public service, any police officer or firefighter member, other than a police officer covered by section 353.6512, who has attained the age of at least 55 years and who is vested under section 353.01, subdivision 47, is entitled upon application to a retirement annuity, known as the "normal" retirement annuity.

**Sec. 8. [353.6512] ALTERNATIVE RETIREMENT BENEFIT COVERAGE IN CERTAIN INSTANCES.**

Subdivision 1. **Applicability.** The alternative benefit coverage under this section applies only to an active member of the public employees police and fire retirement plan who was an active member of the former Minneapolis Police Relief Association on the day prior to the consolidation effective date under section 19 and who retires after the consolidation effective date under section 19.

Subd. 2. **Retirement annuity.** (a) A member described in subdivision 1, if the member meets the eligibility requirements of paragraph (b), is only entitled to a retirement annuity under this subdivision.

(b) The member, upon application, if the person is at least age 50 and has credit for at least 20 years of allowable service, is entitled to a normal retirement annuity. The normal retirement annuity is the following amount based on the service credit of the retiring member as a Minneapolis police officer:

years of service

retirement annuity amount

<u>20</u>	<u>35 units</u>
<u>21</u>	<u>36.6 units</u>
<u>22</u>	<u>38.2 units</u>
<u>23</u>	<u>39.8 units</u>
<u>24</u>	<u>41.4 units</u>
<u>25 or more</u>	<u>43.0 units</u>

Subd. 3. **Disability benefit.** A member described in subdivision 1, if the member is disabled under section 353.01, subdivision 41 or 46, and has not yet attained the age of 50 years, is entitled to a disability benefit equal to 34 units.

Subd. 4. **Surviving spouse benefit.** A surviving spouse under section 353.01, subdivision 20, of a deceased member described in subdivision 1 is entitled to a surviving spouse benefit equal to 23 units.

Subd. 5. **Surviving dependent child benefit.** A surviving dependent child under section 353.01, subdivision 15a, of a deceased member described in subdivision 1 is entitled to a surviving child benefit equal to eight units.

Subd. 6. **Surviving family benefit maximum.** The surviving spouse and surviving dependent child under subdivisions 4 and 5 are entitled to a combined family benefit under subdivisions 4 and 5 of 41 units.

Subd. 8. **Postretirement adjustments.** Retirement annuities, service pensions, disability benefits, and survivor benefits after December 31, 2015, are eligible for postretirement adjustments under section 356.415, subdivision 1c. The unit value for the calculation of a retirement annuity first payable after December 31, 2015, is the calendar year 2015 unit value, plus any postretirement adjustment percentage amount under section 356.415, subdivision 1c, payable after December 31, 2015, and before the date of retirement.

Subd. 9. **Savings clause; dispute resolution.** In the event of any dispute by or on behalf of any former member of the consolidating relief association after the effective date of consolidation over the amount of a benefit to which the person may be entitled, the proper interpretation of a provision of this article, or the conformity of the provisions of this article to the provisions of the benefit plan of the consolidating relief association in effective immediately before the date of the consolidation, the dispute shall be submitted in writing to the Legislative Commission on Pensions and Retirement by the person who is a party to the dispute, by the fraternal organization related to the former relief association, or by the executive director of the Public Employees Retirement Association. The Legislative Commission on Pensions and Retirement shall review the dispute as part of its deliberations on proposed or pending retirement legislation and shall make its recommendation on the resolution of the dispute, if any, to the appropriate committees of the senate and house of representatives with jurisdiction over public employee pension matters in the form of the necessary legislation amending the provisions of this article, which proposed legislation must include retroactivity of any increase in a benefit amount to the date on which the benefit subject to dispute accrued or would have accrued.

Sec. 9. Minnesota Statutes 2010, section 353.656, subdivision 1, is amended to read:

Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the police and fire plan, other than a police officer covered by section 353.6512, who is determined to qualify for duty disability as defined in section 353.01, subdivision 41, shall receive disability benefits during the period of such disability in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percentage specified under section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

(b) To be eligible for a benefit under paragraph (a), the member must have:

(1) not met the requirements for a retirement annuity under section 353.651, subdivision 1; or

(2) met the requirements under that subdivision, but does not have at least 20 years of allowable service credit.

(c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a period of 60 months from the disability benefit accrual date and at the end of that period is subject to provisions of subdivision 5a.

(d) If the disability under this subdivision occurs before the member has at least five years of allowable service credit in the police and fire plan, the disability benefit must be computed on the average salary from which deductions were made for contribution to the police and fire fund.

Sec. 10. Minnesota Statutes 2010, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A member of the police and fire plan, other than a police officer covered by section 353.6512, whose disabling condition is determined to be a duty disability that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, disability benefits in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to meet the definition for receipt of a duty disability under section 353.01, subdivision 41, is subject to subdivision 1 upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.

(c) If a member approved for disability benefits under this subdivision dies before attaining normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or within 60 months of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (1), if the death is the direct result of the disabling condition for which disability benefits were approved, or section 353.657, subdivision 2, paragraph (a), clause (2), if the death is not directly related to the disabling condition for which benefits were approved under this subdivision.

(d) If the election of an actuarial equivalent optional annuity is not made at the time the

permanent and total disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or having collected total and permanent disability benefits for 60 months, whichever is later. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

Sec. 11. Minnesota Statutes 2010, section 353.656, subdivision 3, is amended to read:

**Subd. 3. Regular disability benefit.** (a) A member of the police and fire plan, other than a police officer covered by section 353.6512, who qualifies for a regular disability benefit as defined in section 353.01, subdivision 46, is entitled to receive a disability benefit, after filing a valid application, in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a.

(b) To be eligible for a benefit under paragraph (a), the member must have at least one year of allowable service credit and have:

(1) not met the requirements for a retirement annuity under section 353.651, subdivision 1, or

(2) met the requirements under that subdivision, but does not have at least 15 years of allowable service credit.

(c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a period of 60 months from the disability benefit accrual date and, at the end of that period, is subject to provisions of subdivision 5a.

(d) For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 12. Minnesota Statutes 2010, section 353.656, subdivision 3a, is amended to read:

**Subd. 3a. Total and permanent regular disability; computation of benefits.** (a) A member of the police and fire plan, other than a police officer covered by section 353.6512, whose disabling condition is determined to be a regular disability under section 353.01, subdivision 46, that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, a disability benefit in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 15 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to meet the definition for receipt of a regular disability under section 353.01, subdivision 46, is subject to subdivision 3 upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.



(c) A member approved for disability benefits under this subdivision may elect to receive a normal disability benefit or an actuarial equivalent optional annuity. If the election of an actuarial equivalent optional annuity is not made at the time the total and permanent disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or having collected disability benefits for 60 months, whichever is later. No surviving spouse benefits are payable if the member dies during the period in which a normal total and permanent disability benefit is being paid. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

Sec. 13. Minnesota Statutes 2010, section 353.657, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) In the event that a member of the police and fire fund, other than a police officer covered by section 353.6512, dies from any cause before retirement or before becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, as defined in section 353.01, subdivision 20, and to a dependent child or children, as defined in section 353.01, subdivision 15, except that if the death is not a line of duty death, the member must be vested under section 353.01, subdivision 47.

(b) Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The spouse and child or children are entitled to monthly benefits as provided in subdivisions 2 to 4.

**Sec. 14. [353.668] CONSOLIDATION OF THE MINNEAPOLIS POLICE RELIEF ASSOCIATION.**

Subdivision 1. **Membership transfer.** On the effective date of consolidation under section 19, the active, inactive, and retired members of the Minneapolis Police Relief Association are transferred to the public employees police and fire retirement plan, are no longer members of the Minneapolis Police Relief Association, and are members of the public employees police and fire retirement plan.

Subd. 2. **Service credit and benefit liability transfer.** (a) Allowable service credit and base salary credit of the active members of the Minneapolis Police Relief Association, as contained in the records of the Minneapolis Police Relief Association through the day before the effective date of consolidation under section 19, are transferred to the public employees police and fire retirement plan and is credited as provided in section 353.01, subdivisions 10b and 16, paragraph (c), on the effective date of consolidation under section 19.

(b) The liability for the payment of retirement annuities, service pensions, and retirement benefits of the Minneapolis Police Relief Association retired members, service pensioners, disabilitants, and other retirement benefit recipients as specified in the records of the Minneapolis Police Relief Association is transferred to the public employees police and fire retirement plan on the effective date of consolidation under section 19.

Subd. 3. **Transfer of records.** On the effective date of the consolidation under section 19, the chief administrative officer of the Minneapolis Police Relief Association shall transfer all records and documents relating to the special fund of the Minneapolis Police Relief Association to the executive director of the Public Employees Retirement Association. To the extent possible, original copies of all records and documents must be transferred.

Subd. 4. **Transfer of assets; transfer of title to assets.** (a) On the effective date of the consolidation under section 19, the chief administrative officer of the Minneapolis Police Relief Association shall transfer the entire assets of the special fund of the Minneapolis Police Relief Association other than the health insurance account to the public employees police and fire retirement fund at market value. Unless ineligible or inappropriate, the transfer must be in the form of investment securities and must include any accounts receivable that are determined by the State Board of Investment as being capable of being collected. An amount, in cash, must be transferred by the city of Minneapolis equal to the market value recognized by the relief association of investment securities that are determined by the executive director of the State Board of Investment not to be in compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, 11A.23, and 11A.24 or not to be appropriate for retention in light of the established investment objectives of the State Board of Investment or of accounts receivable determined by the executive director of the State Board of Investment as being incapable of being collected. Legal and beneficial title to assets that are determined noncompliant or inappropriate securities or that are uncollectible accounts receivable are transferred to the city of Minneapolis on the effective date of consolidation under section 19. Any accounts payable on the effective date of consolidation under section 19 are an obligation of the public employees police and fire retirement fund and reduce the asset value for purposes of subdivision 6. The transferred assets must be deposited in the public employees police and fire retirement fund. The amount of the health insurance account as of the date of the consolidation must remain deposited in the financial institution retained by the former Minneapolis Police Relief Association on May 1, 2011, and that financial institution must act as the custodian of the account. The financial institution shall perform all trustee and fiduciary duties with respect to the account as a condition to the retention of the account. The executive director of the Minneapolis Police Relief Association, prior to the effective date of consolidation, shall estimate three calendar years of the administrative expenses related to the operation of the account and shall prepay those expenses from the account to the financial institution prior to the effective date of consolidation. After the three-year prepayment period, the beneficiaries of the account are responsible for the payment of the administrative expenses related to the operation of the account.

(b) Upon the transfer of assets to the State Board of Investment under paragraph (a), legal title to those transferred assets vests with the State Board of Investment on behalf of the public employees police and fire retirement plan, and beneficial title to the transferred assets remains with the former membership of the former Minneapolis Police Relief Association.

(c) The public employees police and fire retirement plan and fund is the successor in interest to all claims for or against the Minneapolis Police Relief Association. the public employees police and fire retirement plan and fund is not liable for any claim against the Minneapolis Police Relief Association, its governing board, or its administrative staff acting in a fiduciary capacity, under chapter 356A or common law, which is founded upon a claim of a breach of fiduciary duty if the act or acts constituting the claimed breach were not undertaken in good faith. The public employees police and fire retirement plan may assert any applicable defense to any claim in any judicial or administrative proceeding that the Minneapolis Police Relief Association, its board, or

its administrative staff would otherwise have been entitled to assert, and the public employees police and fire retirement plan may assert any applicable defense that it has in its capacity as a statewide agency.

(d) The Public Employees Retirement Association shall indemnify any former fiduciary of the Minneapolis Police Relief Association consistent with the provisions of section 356A.11. The indemnification may be effected by the purchase by the Public Employees Retirement Association of reasonable fiduciary liability tail insurance for the officers and directors of the former Minneapolis Police Relief Association. Consistent with section 69.80, the relief association may purchase reasonable fiduciary liability tail insurance for its officers and directors prior to the effective date of consolidation under section 19.

(e) Office equipment and other physical assets of the special fund of the Minneapolis Police Relief Association that are not needed by the Public Employees Retirement Association may be sold by the special fund of the Minneapolis Police Relief Association to the general fund of the Minneapolis Police Relief Association or to any successor fraternal organization of the Minneapolis Police Relief Association at fair market value, with the proceeds of that sale deposited in the public employees police and fire retirement fund and included in the transferred asset value under subdivision 6.

Subd. 5. **Benefits.** The annuities, service pensions, and other retirement benefits of or attributable to retired, disabled, deferred, or inactive Minneapolis Police Relief Association members who had that status as of the day before the effective date of consolidation under section 19 continue after consolidation in the same amount and under the same terms as provided in chapter 423B, except that the unit value is governed by section 353.01, subdivision 10b, and the postretirement adjustments after December 31, 2015, must be calculated solely under section 353.6512, subdivision 8.

Subd. 6. **Additional employer contributions.** (a) As of the effective date of the consolidation under section 19, the approved actuary retained by the Public Employees Retirement Association shall calculate the present value of future benefits of the former Minneapolis Police Relief Association, and, after subtracting the market value of the transferred assets of the former Minneapolis Police Relief Association and the present value of the employer contribution under section 353.65, subdivision 3, paragraph (b), shall calculate the remainder present value of future benefits amount. Annually, following the effective date of consolidation under section 19, the city of Minneapolis shall pay an amount sufficient to amortize on a level annual dollar basis the remainder present value of future benefits amount by December 31, 2031. The amortization payment is payable annually on July 15, beginning in the year following the effective date of the consolidation. The 2012 payment should be estimated based on the provisions of this legislation. The July 2013 payment shall be adjusted based on the final actuarial valuation.

(b) If the postretirement or preretirement interest rate actuarial assumption applicable to the public employees police and fire retirement plan under section 356.215, subdivision 8, is modified from the rates specified in section 356.215, subdivision 8, the remainder present value of future benefits amount calculation under paragraph (a), updated for the passage of time, must be revised and the amortization contribution by the city of Minneapolis for the balance of the amortization period must be redetermined and certified to the city of Minneapolis.

Subd. 7. **Health and dental insurance program deductions.** The executive director shall withhold any health insurance or dental insurance premiums designated by the annuitant or benefit

recipient and shall transfer them to the city of Minneapolis. The Public Employees Retirement Association may charge a necessary and reasonable monthly administrative fee to the city of Minneapolis for this function and bill it in addition to the employer contribution under section 353.65, subdivision 3, paragraph (b). Notwithstanding any provision of chapter 13 to the contrary, the executive director shall provide the city of Minneapolis with the current addresses of former members of the Minneapolis Police Relief Association.

Subd. 8. **Cooperation with fraternal organization.** (a) This subdivision applies if the membership of the former Minneapolis Police Relief Association approves the continuation of the relief association as a fraternal organization under section 16.

(b) The executive director shall cooperate with the Minneapolis police fraternal association to insure adequate communication with the former members of the former Minneapolis Police Relief Association consistent with Public Employees Retirement Association policy.

Sec. 15. Minnesota Statutes 2010, section 423A.02, subdivision 1b, is amended to read:

Subd. 1b. **Additional amortization state aid.** (a) Annually, on October 1, the commissioner of revenue shall allocate the additional amortization state aid transferred under section 69.021, subdivision 11, to:

(1) all police or salaried firefighters relief associations governed by and in full compliance with the requirements of section 69.77, that had an unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31;

(2) all local police or salaried firefighter consolidation accounts governed by chapter 353A that are certified by the executive director of the public employees retirement association as having for the current fiscal year an additional municipal contribution amount under section 353A.09, subdivision 5, paragraph (b), and that have implemented section 353A.083, subdivision 1, if the effective date of the consolidation preceded May 24, 1993, and that have implemented section 353A.083, subdivision 2, if the effective date of the consolidation preceded June 1, 1995; and

(3) the municipalities that are required to make an additional municipal contribution under section 353.665, subdivision 8, or 353.668, subdivision 6, for the duration of the required additional contribution.

(b) The commissioner shall allocate the state aid on the basis of the proportional share of the relief association or consolidation account of the total unfunded actuarial accrued liability of all recipient relief associations and consolidation accounts as of December 31, 1993, for relief associations, and as of June 30, 1994, for consolidation accounts.

(c) Beginning October 1, 2000, and annually thereafter, the commissioner shall allocate the state aid, including any state aid in excess of the limitation in subdivision 4, on the following basis:

(1) 64.5 percent to the municipalities to which section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), apply for distribution in accordance with paragraph (b) and subject to the limitation in subdivision 4;

(2) 34.2 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Fire Department Relief

Association; and

(3) 1.3 percent to the city of Virginia to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Virginia Fire Department Relief Association.

If there is no unfunded actuarial accrued liability in both the Minneapolis Police Relief Association and the Minneapolis Fire Department Relief Association as disclosed in the most recent actuarial valuations for the relief associations prepared under sections 356.215 and 356.216, the commissioner shall allocate that 34.2 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. If there is no unfunded actuarial accrued liability in the Virginia Fire Department Relief Association as disclosed in the most recent actuarial valuation for the relief association prepared under sections 356.215 and 356.216, the commissioner shall allocate that 1.3 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. Upon the final payment to municipalities required by section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), the commissioner shall allocate that 64.5 percent of the aid as follows: 20 percent to the St. Paul Teachers Retirement Fund Association, 20 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation proposed under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Firefighters Relief Association, 20 percent for the city of Duluth to pay for any costs associated with the police and firefighters pensions, and 40 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. The allocation must be made by the commissioner at the same time and under the same procedures as specified in subdivision 3. With respect to the St. Paul Teachers Retirement Fund Association, annually, beginning on July 1, 2005, if the applicable teacher's association five-year average time-weighted rate of investment return does not equal or exceed the performance of a composite portfolio assumed passively managed (indexed) invested ten percent in cash equivalents, 60 percent in bonds and similar debt securities, and 30 percent in domestic stock calculated using the formula under section 11A.04, clause (11), the aid allocation to that retirement fund under this section ceases until the five-year annual rate of investment return equals or exceeds the performance of that composite portfolio.

(d) The amounts required under this subdivision are the amounts annually appropriated to the commissioner of revenue under section 69.021, subdivision 11, paragraph (e).

**Sec. 16. MINNEAPOLIS POLICE RELIEF ASSOCIATION; SPECIAL ACTUARIAL VALUATION PENDING CONSOLIDATION.**

(a) On or before August 1, 2011, the approved actuarial consulting firm retained by the Public Employees Retirement Association under Minnesota Statutes, section 356.214, shall prepare an alternative actuarial valuation of the Minneapolis Police Relief Association under Minnesota Statutes, section 356.215, and the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement as of August 11, 2010, using the applicable actuarial assumptions and the applicable amortization target date of the public employee police and fire retirement plan.

(b) The officers of the Minneapolis Police Relief Association shall supply the approved actuary retained by the Public Employees Retirement Association with the financial and demographic data necessary to perform the alternative actuarial valuation.

(c) The alternative actuarial valuation of the Minneapolis Police Relief Association must be filed with the mayor of the city of Minneapolis, with the Minneapolis city coordinator, with the executive director of the Minneapolis Police Relief Association, with the executive director of the Public Employees Retirement Association, with the executive director of the Legislative Commission on Pensions and Retirement, and with the Legislative Reference Library.

(d) The expense of preparing the alternative actuarial valuation must be paid by the city of Minneapolis within 30 days of its certification to the finance director of the city of Minneapolis by the executive director of the Public Employees Retirement Association.

**Sec. 17. TERMINATION OF THE RELIEF ASSOCIATION.**

(a) On the effective date of the consolidation under section 19, the special fund of the Minneapolis Police Relief Association ceases to exist.

(b) The Minneapolis Police Relief Association shall provide for the continuation of the relief association as a fraternal organization other than as a pension or retirement organization and shall approve the changes in its articles of incorporation and bylaws necessary to effect that redesignation and reorganization of the organization.

(c) If the Minneapolis Police Relief Association continues the relief association as a fraternal organization under paragraph (b), the transfer of relief association assets under Minnesota Statutes, section 353.668, subdivision 4, must not include assets of the Minneapolis Police Relief Association general fund, which must be retained by the fraternal organization for organization purposes other than for pension or retirement benefit payment purposes.

(d) As of the effective date of the consolidation under section 19, the employment of the employees of the Minneapolis Police Relief Association terminates. The employees of the Minneapolis Police Relief Association who were employed by the relief association before May 1, 2011, have an employment preference with the Public Employees Retirement Association equal to that under the veterans preference act.

(e) If, on the day following approval of this article by the Minneapolis city council, the consolidation has been approved by all applicable entities under section 19, the officers of the Minneapolis Police Relief Association shall certify to the city of Minneapolis and to the Hennepin County auditor the financial requirements of the relief association and the minimum municipal obligation under Minnesota Statutes, section 69.77, subdivision 4, revised consistent with the actuarial valuation results under Minnesota Statutes, section 423A.02, subdivision 1b.

(f) After the effective date of consolidation under section 19, the city of Minneapolis shall continue to administer the health and dental insurance programs as constituted on May 1, 2011, for the former members of the former Minneapolis Police Relief Association, transferring premiums as required.

**Sec. 18. REPEALER.**

Minnesota Statutes 2010, sections 423B.01; 423B.03; 423B.04; 423B.05; 423B.06; 423B.07;

423B.08; 423B.09; 423B.10; 423B.11; 423B.12; 423B.13; 423B.14; 423B.15; 423B.151; 423B.16; 423B.17; 423B.18; 423B.19; 423B.20; 423B.21; and 423B.23, are repealed.

**Sec. 19. EFFECTIVE DATE; LOCAL APPROVAL.**

(a) Sections 1 to 16, 17, paragraphs (a) to (d), and 18 are effective December 30, 2011, if the board of trustees of the Minneapolis Police Relief Association approves the article and if a majority of the entire membership of the Minneapolis Police Relief Association voting on the question approves the article, if the chief administrative officer of the Minneapolis Police Relief Association certifies those approvals to the mayor of the city of Minneapolis and the president of the Minneapolis city council before September 15, 2011, if the board of trustees of the Public Employees Retirement Association approves the article, if the executive director of the Public Employees Retirement Association certifies that approval to the mayor of the city of Minneapolis and the president of the Minneapolis city council, if the governing body of the city of Minneapolis and the chief clerical officer of Minneapolis timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, on or before October 15, 2011, or on the date set by the board of trustees of the Public Employees Retirement Association, in consultation with the mayor of the city of Minneapolis and the executive director of the relief association, at the first regular meeting of the Public Employees Retirement Association board of trustees occurring after Minneapolis city council approval if the governing body of the city of Minneapolis and the chief clerical officer of Minneapolis complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after October 15, 2011, and if a comparable consolidation relating to the Minneapolis Firefighters Relief Association is approved by all applicable entities under article 7.

(b) If the approvals occur under paragraph (a) in a timely fashion, section 17, paragraph (e), is effective on the day following approval by the Minneapolis city council.

**ARTICLE 8**

**CONFORMING CHANGES**

Section 1. Minnesota Statutes 2010, section 6.67, is amended to read:

**6.67 PUBLIC ACCOUNTANTS; REPORT OF POSSIBLE MISCONDUCT.**

Whenever a public accountant in the course of auditing the books and affairs of a political subdivision or a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A, ~~423B, 423C,~~ or 424A, discovers evidence pointing to nonfeasance, misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties and affairs, the public accountant shall promptly make a report of such discovery to the state auditor and the county attorney of the county in which the governmental unit is situated and the public accountant shall also furnish a copy of the report of audit upon completion to said officers. The county attorney shall act on such report in the same manner as required by law for reports made to the county attorney by the state auditor.

Sec. 2. Minnesota Statutes 2010, section 13D.01, subdivision 1, is amended to read:

Subdivision 1. **In executive branch, local government.** All meetings, including executive sessions, must be open to the public

- (a) of a state
  - (1) agency,
  - (2) board,
  - (3) commission, or
  - (4) department,

when required or permitted by law to transact public business in a meeting;

- (b) of the governing body of a
  - (1) school district however organized,
  - (2) unorganized territory,
  - (3) county,
  - (4) statutory or home rule charter city,
  - (5) town, or
  - (6) other public body;
- (c) of any
  - (1) committee,
  - (2) subcommittee,
  - (3) board,
  - (4) department, or
  - (5) commission,

of a public body; and

- (d) of the governing body or a committee of:

- (1) a statewide public pension plan defined in section 356A.01, subdivision 24; or
- (2) a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A ~~or 423B~~.

Sec. 3. Minnesota Statutes 2010, section 43A.316, subdivision 8, is amended to read:

Subd. 8. **Continuation of coverage.** (a) A former employee of an employer participating in the program who is receiving a public pension disability benefit or an annuity or has met the age and service requirements necessary to receive an annuity under chapter 353, 353C, 354, 354A, 356, or 423, 423A, 424, or Minnesota Statutes 2008, chapter 422A, and the former employee's dependents, are eligible to participate in the program. This participation is at the person's expense unless a collective bargaining agreement or personnel policy provides otherwise. Premiums for these participants must be established by the commissioner.



The commissioner may provide policy exclusions for preexisting conditions only when there is a break in coverage between a participant's coverage under the employment-based group insurance program and the participant's coverage under this section. An employer shall notify an employee of the option to participate under this paragraph no later than the effective date of retirement. The retired employee or the employer of a participating group on behalf of a current or retired employee shall notify the commissioner within 30 days of the effective date of retirement of intent to participate in the program according to the rules established by the commissioner.

(b) The spouse of a deceased employee or former employee may purchase the benefits provided at premiums established by the commissioner if the spouse was a dependent under the employee's or former employee's coverage under this section at the time of the death. The spouse remains eligible to participate in the program as long as the group that included the deceased employee or former employee participates in the program. Coverage under this clause must be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The program benefits must continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

(d) A participant who discontinues coverage may not reenroll.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Sec. 4. Minnesota Statutes 2010, section 69.77, subdivision 1a, is amended to read:

Subd. 1a. **Covered retirement plans.** The provisions of this section apply to the following local retirement plans:

- (1) the Bloomington Firefighters Relief Association;
- (2) the Fairmont Police Relief Association; and
- ~~(3) the Minneapolis Firefighters Relief Association;~~
- ~~(4) the Minneapolis Police Relief Association; and~~
- ~~(5) (3) the Virginia Fire Department Relief Association.~~

Sec. 5. Minnesota Statutes 2010, section 69.77, subdivision 4, is amended to read:

Subd. 4. **Relief association financial requirements; minimum municipal obligation.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216,

as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80. ~~No amount of administrative expenses under this clause are to be included in the financial requirements of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association;~~ and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8, by that fund's amortization date as specified in paragraph (d).

(d) ~~The Minneapolis Firefighters Relief Association special fund amortization date is determined under section 423C.15, subdivisions 3 and 4. The Virginia Fire Department Relief Association special fund amortization date is December 31, 2010. The Minneapolis Police Relief Association special fund and the Fairmont Police Relief Association special fund amortization date is December 31, 2020. The Bloomington Fire Department Relief Association special fund amortization date is determined under section 356.216, paragraph (a), clause (2). The amortization date specified in this paragraph supersedes any amortization date specified in any applicable special law.~~

(e) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, paragraph (a), clause (6), from the local police and salaried firefighters' relief association amortization aid program established

under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

Sec. 6. Minnesota Statutes 2010, section 356.215, subdivision 8, is amended to read:

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
<del>Minneapolis Police Relief Association</del>	<del>6.0</del>	<del>6.0</del>
Fairmont Police Relief Association	5.0	5.0
<del>Minneapolis Fire Department Relief Association</del>	<del>6.0</del>	<del>6.0</del>
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

(b) Before July 1, 2010, the actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
------	--------------------------------------

legislators retirement plan	5.0%
judges retirement plan	4.0
<del>Minneapolis Police Relief Association</del>	4.0
Fairmont Police Relief Association	3.5
<del>Minneapolis Fire Department Relief Association</del>	4.0
Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0

(2) age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

plan	future salary increase assumption
general state employees retirement plan	select calculation and assumption A
correctional state employees retirement plan	assumption G
State Patrol retirement plan	assumption F
public employees police and fire fund retirement plan	assumption B
local government correctional service retirement plan	assumption F
teachers retirement plan	assumption C
Duluth teachers retirement plan	assumption D
St. Paul teachers retirement plan	assumption E

The select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated select period is five years and the designated integer is five for the general state employees retirement plan. The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, the public employees police and fire plan, and the local government correctional service plan; (2) 0.6 percent for the general state employees retirement plan; and (3) 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.

The ultimate future salary increase assumption is:

age	A	B	C	D	E	F	G
16	5.95%	11.00%	7.70%	8.00%	6.90%	7.7500%	7.2500%
17	5.90	11.00	7.65	8.00	6.90	7.7500	7.2500

62ND DAY]

SATURDAY, MAY 21, 2011

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18	5.85	11.00	7.60	8.00	6.90	7.7500	7.2500
19	5.80	11.00	7.55	8.00	6.90	7.7500	7.2500
20	5.75	11.00	5.50	6.90	6.90	7.7500	7.2500
21	5.75	11.00	5.50	6.90	6.90	7.1454	6.6454
22	5.75	10.50	5.50	6.90	6.90	7.0725	6.5725
23	5.75	10.00	5.50	6.85	6.85	7.0544	6.5544
24	5.75	9.50	5.50	6.80	6.80	7.0363	6.5363
25	5.75	9.00	5.50	6.75	6.75	7.0000	6.5000
26	5.75	8.70	5.50	6.70	6.70	7.0000	6.5000
27	5.75	8.40	5.50	6.65	6.65	7.0000	6.5000
28	5.75	8.10	5.50	6.60	6.60	7.0000	6.5000
29	5.75	7.80	5.50	6.55	6.55	7.0000	6.5000
30	5.75	7.50	5.50	6.50	6.50	7.0000	6.5000
31	5.75	7.30	5.50	6.45	6.45	7.0000	6.5000
32	5.75	7.10	5.50	6.40	6.40	7.0000	6.5000
33	5.75	6.90	5.50	6.35	6.35	7.0000	6.5000
34	5.75	6.70	5.50	6.30	6.30	7.0000	6.5000
35	5.75	6.50	5.50	6.25	6.25	7.0000	6.5000
36	5.75	6.30	5.50	6.20	6.20	6.9019	6.4019
37	5.75	6.10	5.50	6.15	6.15	6.8074	6.3074
38	5.75	5.90	5.40	6.10	6.10	6.7125	6.2125
39	5.75	5.70	5.30	6.05	6.05	6.6054	6.1054
40	5.75	5.50	5.20	6.00	6.00	6.5000	6.0000
41	5.75	5.40	5.10	5.90	5.95	6.3540	5.8540
42	5.75	5.30	5.00	5.80	5.90	6.2087	5.7087
43	5.65	5.20	4.90	5.70	5.85	6.0622	5.5622
44	5.55	5.10	4.80	5.60	5.80	5.9048	5.4078
45	5.45	5.00	4.70	5.50	5.75	5.7500	5.2500
46	5.35	4.95	4.60	5.40	5.70	5.6940	5.1940
47	5.25	4.90	4.50	5.30	5.65	5.6375	5.1375
48	5.15	4.85	4.50	5.20	5.60	5.5822	5.0822
49	5.05	4.80	4.50	5.10	5.55	5.5404	5.0404
50	4.95	4.75	4.50	5.00	5.50	5.5000	5.0000
51	4.85	4.75	4.50	4.90	5.45	5.4384	4.9384

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## JOURNAL OF THE SENATE

[62ND DAY

52	4.75	4.75	4.50	4.80	5.40	5.3776	4.8776
53	4.65	4.75	4.50	4.70	5.35	5.3167	4.8167
54	4.55	4.75	4.50	4.60	5.30	5.2826	4.7826
55	4.45	4.75	4.50	4.50	5.25	5.2500	4.7500
56	4.35	4.75	4.50	4.40	5.20	5.2500	4.7500
57	4.25	4.75	4.50	4.30	5.15	5.2500	4.7500
58	4.25	4.75	4.60	4.20	5.10	5.2500	4.7500
59	4.25	4.75	4.70	4.10	5.05	5.2500	4.7500
60	4.25	4.75	4.80	4.00	5.00	5.2500	4.7500
61	4.25	4.75	4.90	3.90	5.00	5.2500	4.7500
62	4.25	4.75	5.00	3.80	5.00	5.2500	4.7500
63	4.25	4.75	5.10	3.70	5.00	5.2500	4.7500
64	4.25	4.75	5.20	3.60	5.00	5.2500	4.7500
65	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
66	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
67	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
68	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
69	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
70	4.25	4.75	5.20	3.50	5.00	5.2500	4.7500
71	4.25		5.20				

## (3) service-related ultimate future salary increase assumption

service length	general employees retirement plan of the Public Employees Retirement Association
1	12.03%
2	8.90
3	7.46
4	6.58
5	5.97
6	5.52
7	5.16
8	4.87
9	4.63
10	4.42

11	4.24
12	4.08
13	3.94
14	3.82
15	3.70
16	3.60
17	3.51
18	3.50
19	3.50
20	3.50
21	3.50
22	3.50
23	3.50
24	3.50
25	3.50
26	3.50
27	3.50
28	3.50
29	3.50
30 or more	3.50

(c) Before July 2, 2010, the actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan	4.50%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00
general employees retirement plan of the Public Employees Retirement Association	4.00
public employees police and fire retirement plan	4.50
local government correctional service retirement plan	4.50

teachers retirement plan	4.50
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

(d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

Sec. 7. Minnesota Statutes 2010, section 356.216, is amended to read:

**356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.**

~~(a)~~ The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution, except that if the actuarial report for the Bloomington Fire Department Relief Association indicates an unfunded actuarial accrued liability, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later, and if subsequent actuarial valuations for the Bloomington Fire Department Relief Association determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later ~~and except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;~~

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial



valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, paragraph (b) or (f), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) for active members:

1. retirement benefits;
2. disability benefits;
3. refund liability due to death or withdrawal;
4. survivors' benefits;

(ii) for deferred annuitants' benefits;

(iii) for former members without vested rights;

(iv) for annuitants;

1. retirement annuities;
2. disability annuities;
3. surviving spouses' annuities;
4. surviving children's annuities;

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

~~(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:~~

~~(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and~~

~~(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.~~

Sec. 8. Minnesota Statutes 2010, section 356.401, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;

(2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(4) the State Patrol retirement plan, established by chapter 352B;

(5) the elective state officers retirement plan, established by chapter 352C;

(6) the unclassified state employees retirement program, established by chapter 352D;

(7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;

(8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;

(9) the public employees defined contribution plan, established by chapter 353D;

(10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;

(11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;

(12) the Teachers Retirement Association, established by chapter 354;

(13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

(15) the individual retirement account plan, established by chapter 354B;

(16) the higher education supplemental retirement plan, established by chapter 354C; and

~~(17) the Minneapolis Police Relief Association, established by chapter 423B;~~

~~(18) the Minneapolis Firefighters Relief Association, established by chapter 423C; and~~

~~(19)~~ (17) the judges retirement fund, established by chapter 490.

Sec. 9. Minnesota Statutes 2010, section 356.465, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the State Patrol retirement plan established under chapter 352B;

- (4) the legislators retirement plan established under chapter 3A;
- (5) the judges retirement plan established under chapter 490;
- (6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;
- (7) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;
- (8) the teachers retirement plan established under chapter 354;
- (9) the Duluth Teachers Retirement Fund Association established under chapter 354A;
- (10) the St. Paul Teachers Retirement Fund Association established under chapter 354A; and
- ~~(11) the Minneapolis Firefighters Relief Association established under chapter 423C;~~
- ~~(12) the Minneapolis Police Relief Association established under chapter 423B; and~~
- ~~(13)~~ (11) the local government correctional service retirement plan of the Public Employees Retirement Association established under chapter 353E.

Sec. 10. Minnesota Statutes 2010, section 423A.01, subdivision 3, is amended to read:

Subd. 3. **Benefit increase for certain relief association members.** Notwithstanding any law to the contrary, any member of a local police or salaried firefighters' relief association located in a municipality which has not adopted a municipal resolution retaining the local relief association ~~pursuant to under~~ subdivision 1, ~~except the city of Minneapolis,~~ shall be entitled to receive, after the effective date for the modification of pension coverage for newly employed personnel, a retirement annuity in addition to the service pension to which the member may be eligible upon retirement. The additional retirement annuity ~~shall be~~ is payable for the life of the retired member. The additional retirement annuity ~~shall be~~ is equal to one-half of one percent of the salary upon which the service pension is calculated payable on the date of termination of active service per year of service credit acquired in excess of 25 years of service credit. The retirement annuity under this subdivision ~~shall~~ is not be subject to any postretirement increases granted ~~pursuant to under~~ increases in the salary payable to a certain employment category or in the salaries payable to active members or be in any other manner escalated or increased after retirement.

Sec. 11. Minnesota Statutes 2010, section 423A.02, subdivision 1, is amended to read:

Subdivision 1. **Amortization state aid.** (a) A municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, that had an unfunded actuarial accrued liability in the most recent relief association actuarial valuation, is entitled, upon application as required by the commissioner of revenue, to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77.

(b) The total amount of amortization state aid to all entitled municipalities must not exceed \$5,055,000.

(c) Subject to the adjustment for the city of Minneapolis provided in this paragraph, the amount of amortization state aid to which a municipality is entitled annually is an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded actuarial accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared under sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded actuarial accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 8. For the city of Minneapolis, the amortization state aid amount thus determined must be reduced by \$747,232 on account of the former Minneapolis Police Relief Association and by \$772,768 on account of the former Minneapolis Fire Department Relief Association. If the amortization state aid amounts determined under this paragraph exceed the amount appropriated for this purpose, the amortization state aid for actual allocation must be reduced pro rata.

(d) Payment of amortization state aid to municipalities must be made directly to the municipalities involved in three equal installments on July 15, September 15, and November 15 annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association.

(e) The commissioner of revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid.

(f) The amount required under this section, as provided in subdivision 3a, is appropriated annually from the general fund to the commissioner of revenue.

Sec. 12. Minnesota Statutes 2010, section 609B.455, is amended to read:

**~~609B.455 MINNEAPOLIS POLICE PUBLIC PENSION; HOMICIDE; BENEFIT LOSS.~~**

Subdivision 1. **Scope.** The collateral sanctions discussed in this section are codified in section 356.406.

Subd. 2. **Homicide; loss of death benefits.** A person charged with a felony causing the death of a public pension plan member has the entitlement to the pension suspended.

Subd. 3. **Forfeiture of survivor benefits upon felony conviction.** A person who is a survivor and convicted of a felony that caused the death of a public pension member forfeits the survivor pension benefit.

Subd. 4. **Benefit recovery.** If pension benefits have already been paid, the chief administrative officer of the pension plan must attempt to recover amounts paid.

Sec. 13. Minnesota Statutes 2010, section 609B.460, is amended to read:

**~~609B.460 FORMER MINNEAPOLIS POLICE RELIEF ASSOCIATION PENSION SERVICE PENSIONER; FELONS NOT ENTITLED TO PENSION DURING INCARCERATION.~~**

Under section 423B.09, A person who is a member of the public employees police and fire retirement plan, who was a member of the former Minneapolis Police Relief Association, and who

was convicted of a felony, is not entitled to a pension or an annuity from the public employee police and fire retirement plan during the person's period of incarceration in a penal institution.

Sec. 14. **EFFECTIVE DATE.**

(a) This article is effective with respect to the Minneapolis Firefighters Relief Association on the date on which the article relating to the Minneapolis Firefighters Relief Association is effective.

(b) This article is effective with respect to the Minneapolis Police Relief Association on the date on which the article relating to the Minneapolis Police Relief Association is effective."

Amend the title accordingly

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

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

### SECOND READING OF HOUSE BILLS

H.F. Nos. 232, 1219 and 1179 were read the second time.

### MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Michel, designee of the Chair of the Committee on Rules and Administration, designated H.F. No. 763 a Special Order to be heard immediately.

### SPECIAL ORDER

**H.F. No. 763:** A bill for an act relating to health; removing expiration date on swimming pond exemption; amending Minnesota Statutes 2010, section 144.1222, subdivision 5.

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:

Bakk	Gazelka	Kelash	Michel	Rosen
Benson	Gerlach	Koch	Miller	Saxhaug
Berglin	Gimse	Kruse	Nelson	Senjem
Bonoff	Goodwin	Kubly	Newman	Sheran
Brown	Hall	Langseth	Nienow	Sieben
Carlson	Hann	Latz	Olson	Skoe
Chamberlain	Harrington	Lillie	Ortman	Stumpf
Cohen	Higgins	Limmer	Pappas	Thompson
Dahms	Hoffman	Lourey	Parry	Tomassoni
Daley	Howe	Magnus	Pederson	Vanderveer
DeKruif	Ingebrigtsen	McGuire	Pogemiller	Wiger
Fischbach	Jungbauer	Metzen	Robling	Wolf

So the bill passed and its title was agreed to.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Limmer moved that H.F. No. 1023 be taken from the table. The motion prevailed.

**H.F. No. 1023:** A bill for an act relating to judiciary; modifying certain provisions relating to courts, the sharing and release of certain data, juvenile delinquency proceedings, child support calculations, protective orders, wills and trusts, property interests, protected persons and wards, receiverships, assignments for the benefit of creditors, notice regarding civil rights, and seat belts; amending Minnesota Statutes 2010, sections 13.82, by adding a subdivision; 13.84, subdivision 6; 169.686, subdivision 1; 169.79, subdivision 6; 169.797, subdivision 4; 203B.06, subdivision 3; 260B.163, subdivision 1; 260C.331, subdivision 3; 279.37, subdivision 8; 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 357.021, subdivision 6; 359.061, subdivisions 1, 2; 462A.05, subdivision 32; 469.012, subdivision 2i; 514.69; 514.70; 518.552, by adding a subdivision; 518A.29; 518B.01, subdivision 8; 524.2-712; 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116; 524.5-502; 525.091, subdivisions 1, 3; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 5B; 201; 243; 576; 577; 630; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

Senator Latz moved to amend the first Limmer amendment to H.F. No. 1023, adopted by the Senate May 21, 2011, as follows:

Page 1, after line 2, insert:

**"ARTICLE 1  
JUDICIARY"**

Page 5, after line 27, insert:

**"ARTICLE 2**

**MINNESOTA COMMON INTEREST OWNERSHIP ACT**

Section 1. Minnesota Statutes 2010, section 515B.1-102, is amended to read:

**515B.1-102 APPLICABILITY.**

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall

not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Requirements); 515B.1-107 (Eminent Domain); 515B.1-108 (This Chapter Prevails; Supplemental Law); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-110 (Vacation of Abutting Publicly Dedicated Property); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(c) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision, Combination, or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board of Directors, Officers, and Declarant Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance of, or Creation of Security Interests in, Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Replacement Reserves); 515B.3-115 (c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994. All other sections referenced in this section apply only with respect to events and circumstances occurring after July 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of condominiums created before August 1, 1999. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums created before August 1, 1999, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994, or to planned communities that were created on or after June 1, 1994, and before August 1, 2006, and that consist of more than two but fewer than 13 units; except by election pursuant to subsection (d), and except that sections 515B.1-116, subsections (a), (c), (d), and (e), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created, unless they are exempt under subsection (e).

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall be adopted in conformity

with the procedures and requirements specified by those instruments and by this chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, or any planned community that was created on or after June 1, 1994, and prior to August 1, 2006, and that consists of more than two but fewer than 13 units, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and a new or amended CIC plat where required, and by approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat or registered land survey recorded pursuant to chapter 505, 508, or 508A, or the part of the plat or registered land survey upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall comply with section 515B.2-118(a)(3) and (c); except that the unanimous consent of the unit owners shall not be required for (i) a clarification of the unit boundary description if the clarified boundary description is substantially consistent with the preexisting CIC plat, or (ii) changes from common elements to limited common elements that occur by operation of section 515B.2-109(c) and (d).

(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) a planned community which consists of two units, which utilizes a CIC plat complying with section 515B.2-110(d)(1) and (2), which is not subject to any rights to subdivide or convert units or to add additional real estate, and which is not subject to a master association;

(2) a common interest community that consists solely of platted lots or other separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, with or without common property, where no association or master association has an obligation to



maintain any building containing a dwelling or any agricultural building located or to be located on such platted lots or parcels; except that section 515B.4-101(e) shall apply to the sale of such platted lots or parcels of real estate if the common interest community is or will be subject to a master declaration;

(3) a cooperative where, at the time of creation of the cooperative, the unit owners' interests in the dwellings as described in the declaration consist solely of proprietary leases having an unexpired term of fewer than 20 years, including renewal options;

(4) planned communities utilizing a CIC plat complying with section 515B.2-110(d)(1) and (2) and cooperatives, which are limited by the declaration to nonresidential uses alone or in combination with residential rental uses in which individual dwellings do not constitute units or other separate parcels of real estate; or

(5) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.

(f) Section 515B.4-101(e) applies to any platted lot or other parcel of real estate that is subject to a master declaration and is not subject to or is exempt from this chapter.

(g) Section 515B.1-106 shall apply to all common interest communities.

(h) The amendments in Laws 2010, chapter 267, to the following Sections apply only to common interest communities created on or after August 1, 2010: section 515B.1-103(33) and sections 515B.1-103(33a), 515B.2-110, 515B.3-105, 515B.3-115, 515B.3-116, 515B.4-102, and 515B.4-115. apply only to common interest communities created before August 1, 2010. Sections 515B.1-103(33b), 515B.2-1101, 515B.3-1051, 515B.3-1151, 515B.4-1021, and 515B.4-1151 apply only to common interest communities created on or after August 1, 2010.

(i) Section 515B.3-114, as amended by Laws 2010, chapter 267, applies to common interest communities only for the association's fiscal years commencing on or after before January 1, 2012. Section 515B.3-1141 applies to common interest communities only for the association's fiscal years commencing on or after January 1, 2012.

(j) Section 515B.3-104, as amended by Laws 2010, chapter 267, is effective August 1, 2010, and applies to transfers of special declarant rights that are effective on or after that date applies only to transfers of special declarant rights that are effective before August 1, 2010. Section 515B.3-1041, subsections (a) through (i), apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Section 515B.3-1041, subsections (j) and (k), apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

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

Sec. 2. Minnesota Statutes 2010, section 515B.1-103, is amended to read:

**515B.1-103 DEFINITIONS.**

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" or "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on, one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate which satisfies the definition of a common interest community is a common interest community whether or not it is subject to this

chapter. Real estate subject to a master declaration, regardless of when the master declaration was recorded, shall not collectively constitute a separate common interest community unless so stated in the master declaration.

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied for residential use wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled to a proprietary lease by virtue of the member's ownership interest in the association.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or a supplemental declaration or amendment to a declaration adding additional real estate, except secured parties, a spouse holding only an inchoate interest, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; or

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred.

(16) "Declaration" means any instrument, however denominated, that creates a common interest community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-109(c) or (d) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity created on or after June 1, 1994, that directly or

indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners' associations described in section 515B.2-121(b)(iv). A person (i) hired by an association to perform maintenance, repair, accounting, bookkeeping or management services, or (ii) granted authority under an instrument recorded primarily for the purpose of creating rights or obligations with respect to utilities, access, drainage, or recreational amenities, is not, solely by reason of that relationship, a master association.

(22) "Master declaration" means a written instrument, however named, (i) recorded on or after June 1, 1994, and (ii) complying with section 515B.2-121, subsection (e).

(23) "Master developer" means a person who is designated in the master declaration as a master developer or, in the absence of such a designation, the owner or owners of the real estate subject to the master declaration at the time the master declaration is recorded, except (i) secured parties and (ii) a spouse holding only an inchoate interest. A master developer is not a declarant unless the master declaration states that the real estate subject to the master declaration collectively is or collectively will be a separate common interest community.

(24) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

(25) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(26) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(27) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(28) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years, including renewal options, or (ii) a security interest.

(29) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

(30) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient use such as hotels or motels.

(31) "Secured party" means the person owning a security interest as defined in paragraph (32).

(32) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, in

a cooperative, a lender's interest in a member's ownership interest in the association, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

(33a) This definition of special declarant rights applies only to common interest communities created before August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to:

(i) complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the CIC is located;

(ii) add additional real estate to a common interest community;

(iii) subdivide or combine units, or convert units into common elements, limited common elements and/or units;

(iv) maintain sales offices, management offices, signs advertising the common interest community, and models;

(v) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate;

(vi) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners;

(vii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or

(viii) appoint or remove any officer or director of the association, or the master association where applicable, during any period of declarant control.

~~(33)~~ (33b) This definition of special declarant rights applies only to common interest communities created on or after August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant and expressly identified in the declaration as special declarant rights. Such special declarant rights may include but are not limited to the following:

(i) to complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the common interest community is located, and to have and use easements for itself and its employees, agents, and contractors through the common elements for such purposes;

(ii) to add additional real estate to a common interest community;

(iii) to subdivide or combine units, or convert units into common elements, limited common elements and/or units, pursuant to section 515B.2-112;

(iv) to maintain and use sales offices, management offices, signs advertising the common interest community, and models, and to have and use easements for itself and its employees, agents, and invitees through the common elements for such purposes;

(v) to appoint or remove any officer or director of the association during any period of declarant control;

(vi) to utilize an alternate common expense plan as provided in section 515B.3-115(a)(2);

(vii) to grant common element licenses as provided in section 515B.2-109(e); or

(viii) to review, and approve or disapprove, the exterior design, materials, size, site location, and other exterior features of buildings and other structures, landscaping and other exterior improvements, located within the common interest community, and any modifications or alterations thereto.

Special declarant rights shall not be reserved or utilized for the purpose of evading any limitation or obligation imposed on declarants by this chapter.

(34) "Time share" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with a fee title interest in the common interest community or a specified portion thereof.

(35) "Unit" means a portion of a common interest community the boundaries of which are described in the common interest community's declaration and which is intended for separate ownership, or separate occupancy pursuant to a proprietary lease.

(36) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

(37) "Unit owner" means a declarant or other person who owns a unit, a lessee under a proprietary lease, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

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

Sec. 3. Minnesota Statutes 2010, section 515B.1-116, is amended to read:

**515B.1-116 RECORDING.**

(a) A declaration, bylaws, a supplemental declaration, any amendment to a declaration, supplemental declaration, or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit or other tract affected. The county recorder shall not enter the declaration in the tract index for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111. The registrar of titles shall file the declaration in accordance with section 508.351 or 508A.351. The registrar of titles shall not file the declaration upon certificates of title for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Except as provided in section 515B.2-109, 515B.2-112, 515B.2-114, or 515B.2-124, if a recorded document relating to a common interest community or a master association purports to require a certain vote or signatures approving any restatement or amendment of the document by a certain number or percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded, an affidavit of the president or secretary of the association stating that the required vote or signatures have been obtained shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration or amended declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat; provided, that if the declaration, amendment, or restatement changes the boundaries of an existing tax parcel, then the recording officer shall require a certification as to the payment of current and delinquent taxes on any tax parcel the boundaries of which are changed. ~~In order for an instrument to be accepted and recorded under the preceding sentence, the instrument must not create or change unit or common area boundaries.~~

**EFFECTIVE DATE.** This section is effective August 1, 2011.

Sec. 4. Minnesota Statutes 2010, section 515B.2-109, is amended to read:

**515B.2-109 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.**

(a) Except as limited by the declaration or this chapter, common elements other than limited common elements may be used in common by all unit owners. Limited common elements are designated for the exclusive use of the unit owners of the unit or units to which the limited common elements are allocated, subject to subsection (b) and the rights of the association as set forth in the declaration, the bylaws or this chapter.

(b) Except for the limited common elements described in subsections (c) and (d), the declaration shall specify to which unit or units each limited common element is allocated.

(c) Unless otherwise provided in the declaration, if any chute, flue, duct, wire, pipe, conduit, bearing wall, bearing column, or other fixture or improvement: (i) serves one or more but fewer than all units and is located wholly or partially outside the unit boundaries, it is a limited common element allocated solely to the unit or units served; (ii) serves all units or any portion of the common elements, it is a part of the common elements; or (iii) serves only the unit and is located wholly within the unit boundaries, it is a part of the unit.

(d) Unless otherwise provided in the declaration, improvements such as shutters, awnings,

window boxes, doorsteps, stoops, porches, balconies, decks, patios, perimeter doors and windows, and their frames, constructed as part of the original construction to serve a single unit or units, and authorized replacements and modifications thereof, if located wholly or partially outside the unit boundaries, are limited common elements allocated solely to the unit or units served.

(e) If the declaration so provides, and subject to any different licensing provisions in a declaration recorded before August 1, 2010, the declarant may grant to a unit owner an exclusive license for the use of a common element originally designed and constructed to serve as a garage stall, storage locker, or other similar common element space, in which case the common element license shall be deemed to be appurtenant to the unit owner's unit, subject to transfer if so provided by the declaration. The declarant shall, at the time the license is granted, provide to the ~~association~~ unit owner a common element license evidenced by a separate instrument signed by the declarant, ~~that~~ and provide a copy of the instrument to the association. The instrument shall, at a minimum, ~~identifies~~ identify the licensed common element, the unit identifier of the unit to which it is appurtenant, and ~~a reference to~~ the section of the declaration governing common element licenses. If the declaration so provides, the declarant may require the onetime payment to the declarant of a consideration for the grant of a license.

(1) A common element license may be held only by a unit owner, and the purported transfer of a license to a person other than a unit owner shall be void. Except as provided in the declaration or this subsection, no interest in the common element license may be held or transferred separate from the unit, ~~and the purported transfer of any interest in the license other than to another unit owner shall be void.~~

(2) The right of any declarant to grant a common element license shall terminate at the earlier of (i) the conveyance of all units to persons other than a declarant or (ii) ten years after the recording of the declaration.

(3) The document granting the common element license shall not be recorded. The association shall maintain records of all common element licenses including originals or copies of the common element licenses and transfers of common element licenses authorized by the declaration.

(4) A common element license granted pursuant to this subsection shall not be subject to the approval requirements set forth in section 515B.3-102(a)(9).

(f) An allocation of limited common elements may be changed by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made and the association. The amendment shall be approved by the board of directors of the association as to form, and compliance with the declaration and this chapter. The association shall establish fair and reasonable procedures and time frames for the submission and processing of the reallocations, and shall maintain records thereof. If approved, the association shall cause the amendment to be recorded promptly. The amendment shall be effective when recorded. The association may require the unit owners requesting the reallocation to pay all fees and costs for reviewing, preparing and recording the amendment and any amended CIC plat.

**EFFECTIVE DATE.** This section is effective August 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 515B.2-110, is amended to read:

**515B.2-110 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).**



~~(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.~~

~~(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).~~

~~(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.~~

~~(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units, shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier and location within the cooperative property.~~

~~(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.~~

~~(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, shall show:~~

~~(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;~~

~~(2) the dimensions and location of all existing roadways and material structural improvements that are part of the common elements;~~

~~(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";~~

~~(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;~~

~~(5) the extent of any encroachments by or upon any portion of the common interest community;~~

~~(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;~~

~~(7) the distance and direction between noncontiguous parcels of real estate;~~

~~(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios, shall be shown;~~

~~(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;~~

~~(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and~~

~~(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate."~~

~~(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:~~

~~(1) comply with chapter 505, 508, or 508A, as applicable; and~~

~~(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.~~

~~(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.~~

~~(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.~~

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat that does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying each building, and showing the perimeter walls of each unit created or changed by the declaration or any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsection (c), clauses (8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions, and legally sufficient description of the land included therein;

(2) the dimensions and location of all existing material structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the local and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) If, pursuant to section 515B.2-112, a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, or combines two or more units, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements, or limited common elements thus created.

(g) A CIC plat which complies with subsection (c) is not subject to chapter 505.

(h) This section applies only to common interest communities created before August 1, 2010.

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

**Sec. 6. [515B.2-1101] COMMON INTEREST COMMUNITY PLAT (CIC PLAT).**

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d), clause (1), or a cooperative in which the unit owners' interests are

characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat that does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier and its location within the cooperative property.

(b) The CIC plat or supplemental or amended CIC plat for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsection (c), clauses (8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d), clause (1), or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions, and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing roadways and material structural improvements that are part of the common elements;

(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate."

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.

(g) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 7. Minnesota Statutes 2010, section 515B.2-121, is amended to read:

**515B.2-121 MASTER ASSOCIATIONS.**

(a) A master association formed after June 1, 1994, shall be organized as a Minnesota profit, nonprofit or cooperative corporation. A master association shall be incorporated prior to the delegation to it of any powers under this chapter.

(b) The members of the master association shall be any combination of (i) unit owners, (ii) associations, (iii) master associations, or (iv) owners of real estate or property owners' associations not subject to this chapter but only in combination with at least one other category of member. An association or its members may be members of an entity created before June 1, 1994, which performs functions similar to those performed by a master association regardless of whether the entity is subject to this chapter.

(c) A master association shall be governed by a master board. Except as expressly prohibited by the master declaration, the master association's articles of incorporation or bylaws, or other provisions of this chapter, the master board may act in all instances on behalf of the master association. The directors of a master association shall be elected or, if a nonprofit corporation, elected or appointed, in a manner consistent with the requirements of the statute under which the master association is formed and of the master association's articles of incorporation and bylaws, and subject to the following:

(1) The master declaration may provide for a period of master developer control of the master association during which a master developer or a person designated by the master developer may appoint and remove the officers and directors of the master association. The period of master developer control begins on the date of the recording of the master declaration and terminates upon the earliest of the following events:

(i) the voluntary surrender of the right to appoint directors;

(ii) the date ten years after the date the master declaration is recorded, unless extended by an amendment to the master declaration approved in writing by the master developer, and by 67 percent of the votes of members other than the master developer;

(iii) the termination date, if any, in the master declaration; or

(iv) the date when at least 75 percent of the total units and other parcels of real estate referred to in subsection (e)(1)(vii) have been conveyed to persons other than a master developer, master association, declarant, or association.

(2) Upon the termination of the period of master developer control, the master board shall cause a meeting of the members of the master association to be called and held within 60 days after said termination, at which time the directors shall be elected by all members, including the master developer if a member. If the master board fails or refuses to call a meeting of the unit owners required to be called by this subsection, then the members other than the master developer and its affiliates, if they are members, may cause the meeting to be called pursuant to the applicable provisions of the statute under which the master association was created. If the master developer or its affiliates are members, they shall be deemed to be present at the meeting for purposes of establishing a quorum regardless of their failure to attend the meeting. The master board shall thereafter be subject to the following:

(i) unless otherwise approved by a vote of members other than the master developer or an affiliate of the master developer, a majority of the directors shall be members, or a natural person designated by a member that is not a natural person, other than the master developer or an affiliate of the master developer;

(ii) subject to the requirements of subsection (c)(2)(i), the articles of incorporation or bylaws may authorize the master developer or a person designated by the master developer to appoint one director, who need not be a member. The articles of incorporation or bylaws shall not be amended to change or terminate the authorization to appoint one director without the written consent of the master developer or other person possessing the power to appoint; and

(iii) subject to the requirements of subsection (c)(2)(i), the articles of incorporation or bylaws may authorize special classes of directors and director voting rights, as follows: (A) classes of

directors, (B) the appointment or election of directors in certain classes by certain classes of members, or (C) class voting by classes of directors on issues affecting only a certain class or classes of members, units, or other parcels of real estate, or to otherwise protect the legitimate interests of such class or classes. No person may utilize such special classes or class voting for the purpose of evading any limitation imposed by this chapter on master developers or declarants.

(d) Subject to subsection (c)(1), the officers of a master association shall be elected, appointed, or designated in a manner consistent with the statute under which the master association is formed and consistent with the master association articles of incorporation and bylaws.

(e) The creation and authority of a master association shall be governed by the following requirements:

(1) A master declaration shall be recorded in connection with the creation of a master association. The master declaration shall be executed by the owners of the real estate subjected to the master declaration and by the master developer if not an owner. The master declaration shall contain, at a minimum:

(i) the name of the master association;

(ii) a legally sufficient description of the real estate which is subject to the master declaration, identifying any interest in the real estate which will be owned by the master association, and a legally sufficient description of any other real estate which may be subjected to the master declaration pursuant to subsection (f);

(iii) a statement as to whether the real estate subject to, and which may be subjected to, the master declaration collectively is or collectively will be a separate common interest community;

(iv) a description of the members of the master association;

(v) a description of the master association's powers. To the extent described in the master declaration, a master association has the powers with respect to the master association's members and the property subject to the master declaration that section 515B.3-102 grants to an association with respect to the association's members and the property subject to the declaration. A master association also has the powers delegated to it by an association pursuant to subsection (e)(2) or by a property owners' association not subject to the chapter; provided (A) that the master declaration identifies the powers and authorizes the delegation either expressly or by a grant of authority to the master board of the association or property owners' association and (B) that the master association board has not refused the delegation pursuant to subsection (e)(4). The provisions of the declarations of the common interest communities, or the provisions of recorded instruments governing other property subject to the master declaration, that delegate powers to the master association shall be consistent with the provisions of the master declaration that govern the delegation of the powers;

(vi) a description of the formulas governing the allocation of assessments and member voting rights, including any special classes or class voting referred to in subsection (c);

(vii) a statement, based upon the master developer's good faith estimate, of the total number of units and other parcels of real estate intended for ownership by persons other than a master developer, master association, declarant, or association that are (A) subject to the master declaration as initially recorded and (B) intended to be created by the addition of real estate or by the subdivision



of units or other parcels of real estate; and

(viii) the requirements for amendment of the master declaration, other than an amendment under subsection (f).

(2) The declaration of a common interest community located on property subject to a master declaration may:

(i) delegate any of the powers described in section 515B.3-102 to the master association; provided, that a delegation of the powers described in section 515B.3-102(a)(2) is effective only if expressly stated in the declaration; and

(ii) authorize the master board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to the master association.

(3) With respect to any other property subject to a master association, there need not be an instrument other than the master declaration recorded against the property to empower the master association to exercise powers with respect to the property.

(4) If a declaration or other recorded instrument authorizes the master board or the board of a property owners' association to delegate powers to a master association, the master board may refuse any delegation of powers that does not comply with (i) this chapter, (ii) the declaration or other recorded instrument, or (iii) the organizational documents of the master association.

(5) The failure of a declaration, a master board, or an owner of property subject to a master association to properly delegate some or all of the powers to the master association does not affect the authority of the master association to exercise those and other powers with respect to other common interest communities or owners of properties that are subject to the master association.

(6) Any interest in the real estate subject to a master declaration that subsection (e)(1)(ii) or (f) indicates will be owned by the master association shall be conveyed to the master association immediately after the recording of the master declaration or amendment to the master declaration, as applicable.

(f) If the master declaration so provides, other real estate may be subjected to the master declaration. The other real estate shall be subjected to the master declaration by an amendment executed (i) by the master developer and (ii) by the owner of the other real estate. The amendment shall identify any ownership interest in the other real estate that will be owned by the master association.

(g) Sections 515B.3-103(a), (b), and (g), 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association. But the rights of voting, notice, and other rights enumerated in those sections apply to persons who elect or appoint the directors of a master board, whether or not those persons are otherwise unit owners within the meaning of this chapter.

(h) If so provided in the master declaration, a master association may levy assessments for common expenses of the master association against its members and the property subject to the master declaration, and have and foreclose liens securing the assessments. The assessment liens shall have the same priority against secured parties, shall include the same fees and charges, and may be foreclosed in the same manner, as assessment liens under section 515B.3-116. The master

association's lien shall have priority as against the lien of an association or property owners' association subject to the master association, regardless of when the lien arose or was perfected.

(1) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. If the members include associations or property owners' associations, then the master assessments may be allocated among and levied against the associations or property owners' associations, or allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owners' association. If so provided in the master declaration, master assessments levied against a member association or property owners' association are allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owners' association. If applicable and appropriate, the formulas and principles described in section 515B.2-108, subsections (b), (c), (d), and (e), shall be used in making the allocations. The assessment formulas and procedures described in the declarations of any common interest communities or any instruments governing other real estate subject to the master association shall not conflict with the formulas and procedures described in the master declaration.

(2) Subject to subsection (i), the master declaration may exempt from liability for all or a portion of master association assessments any person authorized by subsection (c)(1) to appoint the members of the master board, or any other person, and exempt any unit or other parcel of real estate owned by the person from a lien for such assessments, until the building containing the unit, or located within the boundaries of the unit or other parcel of real estate, is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in a jurisdiction that issues that certificate.

(i) A master association shall not be used, directly or indirectly, to avoid or nullify any warranties or other obligations for which a declarant of a common interest community subject to the master association is responsible, or to otherwise avoid the requirements of this chapter.

**EFFECTIVE DATE.** This section is effective August 1, 2011.

Sec. 8. Minnesota Statutes 2010, section 515B.2-124, is amended to read:

**515B.2-124 SEVERANCE OF COMMON INTEREST COMMUNITY.**

(a) Unless the declaration provides otherwise, a part of a common interest community containing one or more units, with or without common elements, may be severed from the common interest community, subject to the requirements of this section. Subject to any additional requirements contained in the declaration, the severance shall be approved in a written severance agreement complying with this section, executed by:

(1) unit owners entitled to cast at least 67 percent of the votes in the association, which approval shall include the approval of unit owners entitled to cast a majority of the votes allocated to units in the remaining common interest community and the approval of unit owners entitled to cast a majority of the votes allocated to units in the part of the common interest community being severed;

(2) declarant until the earlier of five years after the recording of the declaration or the time at which declarant no longer owns an unsold unit; and

(3) in the case of a cooperative, all holders of mortgages or contracts for deed on the entire real estate constituting the cooperative.

(b) The declaration may specify a smaller percentage for unit owner approval only if all of the units are restricted to nonresidential use.

(c) The severance agreement shall specify a severance date by which the severance of the common interest community shall be accomplished, after which the severance agreement is void. The severance agreement shall be deemed to grant to the association a power of attorney coupled with an interest to effect the severance of the common interest community on behalf of the unit owners and the holders of all other interests in the units, including without limitations the power to execute the amendment to the declaration, any instruments of conveyance, and all related instruments.

(d) The severance agreement shall:

(1) Approve an amendment to the declaration complying with this chapter, in substantially the same form to be recorded, and an amendment to the CIC plat if required. The declaration amendment shall, at a minimum, (i) legally describe the real estate constituting the remaining common interest community and the real estate being severed, (ii) restate the number of units in the remaining common interest community, (iii) reallocate the interests of the unit owners in the remaining common interest community among the remaining units in accordance with the allocation formula set forth in the declaration, and (iv) recite any easements to which the severed portion of the common interest community remains subject.

(2) Approve an amendment to the articles of incorporation and bylaws of the remaining common interest community, if necessary.

(3) Authorize the association to execute and record the amended declaration, articles of incorporation or bylaws on behalf of the unit owners and all other persons holding an interest in the remaining common interest community, and to take other actions necessary to accomplish the severance of the common interest community.

(4) Allocate the assets and liabilities of the association between the association and (i) a new association formed pursuant to subsection (g), or (ii) the owners of the units being severed, subject to a lien against their interest in the severed real estate or their share in the assets of the association in favor of any person that held a security interest in their unit.

(5) If the units that are being severed from the common interest community will not be included in a new common interest community that is (i) formed simultaneously with the severance of the common interest community, and (ii) includes all of the units and substantially all of the common elements being severed, then the agreement shall contain the written consent of holders of first mortgages on all units that are being severed, and shall describe in detail the proposed disposition of all real estate to be severed and all assets of the association allocated to the severed units, and the distribution of the proceeds of the disposition, if any, consistent with subsection (i).

(e) The severance agreement or a memorandum of it shall be recorded in every county in which a part of the common interest community is located. The recording of the severance agreement or memorandum of it shall, from the date of recording, constitute notice to all persons subsequently acquiring an interest in the common interest community that the common interest community is being severed, and that those persons acquire their interests subject to the terms and conditions contained in the severance agreement and the amendment to the declaration.

(f) The amendment to the declaration of the remaining common interest community shall be recorded on or before the severance date or the severance agreement and the amendment to the declaration are void as of the day after the severance date. The recording of the amendment to the declaration shall complete the severance of the common interest community and release the severed part of the common interest community from the declaration without further action by any person.

(g) ~~If the unit owners whose units that are being severed from the common interest community intend to form~~ will be included in a new common interest community, then said unit owners shall, by entitled to cast at least 80 percent of the votes allocated by the existing declaration to said these units, shall approve a new declaration, articles of incorporation and bylaws to govern the new common interest community no later than 60 days before the effective date of the severance agreement. However, the new declaration shall not create, increase, or extend special declarant rights, increase the number of units, change unit boundaries, change the formula for allocations of interests, change the use of a unit from residential to nonresidential or conversely, or change the form of common interest community, unless agreed to in writing by all owners whose units are being severed. The new declaration shall be recorded simultaneously with the amendment to the existing declaration. No later than 30 days after the date of the severance agreement, The articles of incorporation creating the association intended to govern the new common interest community shall be filed with the secretary of state and promptly thereafter the unit owners whose units are being severed shall elect a board of directors to act on behalf of the new association before the recording of the new declaration. The new association shall have a power of attorney coupled with an interest to execute and record the new declaration, any instruments of conveyance and all related instruments on behalf of the unit owners whose units are being severed from the common interest community, but shall not thereby acquire any rights or obligations of a declarant. The board of directors of the new association shall cooperate with the board of directors of the existing association to complete the severance. The existing association shall retain all authority to act on behalf of the common interest community until the amendment to the existing declaration and the new declaration are recorded.

(h) The legal descriptions of the real estate constituting (i) the remaining common interest community, and (ii) the severed portion of the common interest community shall, at the time of recording of the amendment to the declaration referred to in subsection (e), be as follows:

(1) In a planned community using a CIC plat that complies with section 515B.2-110, subsection (d), the lot and block descriptions contained in the CIC plat, and any amendments to it, with respect to (i) the remaining common interest community, and (ii) the severed portion of the common interest community.

(2) In a condominium, or cooperative or planned community using a CIC plat that complies with section 515B.2-110, subsection (c), (i) the CIC plat description relating to the remaining common interest community, and (ii) the part of the underlying legal description of the real estate in the declaration creating the common interest community, and any amendments to it, relating to the severed part of the common interest community.

(3) The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal descriptions required by this subsection as of the date of recording of the amendment to the declaration. In the case of registered property, the registrar of titles shall cancel the existing certificates of title for the severed part of the common interest community and issue certificates of title for the property using the legal descriptions required by this subsection.

(i) In a condominium or planned community, if the severed part of the common interest community is not to be reconstituted as a new common interest community following severance, title to all the real estate in the severed part of the common interest community vests in the unit owners of the units being severed, upon severance, as provided in the severance agreement.

(j) No common interest community shall be severed in such a manner as to materially impair access, utility services, communication services, or other essential services with respect to either the remaining common interest community or the severed part of the common interest community.

**EFFECTIVE DATE.** This section is effective August 1, 2011.

Sec. 9. Minnesota Statutes 2010, section 515B.3-102, is amended to read:

**515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

(a) Except as provided in subsections (b) and (c), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a

cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant or amend easements for public utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by a vote of unit owners other than declarant or its affiliates, grant or amend other easements, leases, and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose interest and late charges for late payment of assessments and, after notice and an opportunity to be heard before the board or a committee appointed by it, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215.

**EFFECTIVE DATE.** This section is effective August 1, 2011.

Sec. 10. Minnesota Statutes 2010, section 515B.3-104, is amended to read:

**515B.3-104 ~~SPECIAL DECLARANT RIGHTS;~~ TRANSFER OF SPECIAL DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND transferee, AND TERMINATION.**

(a) ~~Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.~~

~~(1) A transfer shall be recorded in compliance with applicable law, and is not effective (i) unless recorded and (ii) unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded.~~

~~(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).~~

~~(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.~~

~~(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited land sale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right that relates to the transferor's ownership interest in the units or additional real estate transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.~~

~~(c) If a declarant is an individual rather than a legal entity, and the individual dies, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.~~

~~(d) A transferor's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant and arising on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4-112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d)(2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes~~

upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).

~~(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferee.~~

~~(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) Except as set forth in subsection (e)(3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4 112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.~~

~~(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferor.~~

~~(f) For purposes of this section, a declarant's obligations under section 515B.3 111(a) arise when the tort or contract violation occurs; a declarant's obligations to a purchaser under section 515B.4 112 arise when the declarant makes an express warranty to the purchaser; and a declarant's obligations to a purchaser under sections 515B.4 113 and 515B.4 118(a), arise when the declarant conveys a unit to the purchaser.~~

~~(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1 103(33)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4 101(b) and 515B.4 102(b), and sections 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 113, 515B.4 117, and 515B.4 118, and for any express warranties under section 515B.4 112 that the transferee makes to purchasers.~~



~~(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent retransfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1-103(33)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3-115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3-103, 515B.3-111, and 515B.3-120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.~~

~~(i) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1-115; or (ii) the conveyance, whether voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.~~

~~(j) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions. Nothing in this section shall subject any transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.~~

(a) A special declarant right created or reserved under this chapter may be voluntarily transferred only by a separate instrument evidencing the transfer recorded in every county in which any part of the common interest community is located. The separate instrument shall be recorded against all units in the common interest community, or in the case of a cooperative, against the real estate owned by the cooperative, or in the case of a condominium on registered land, the instrument must be filed pursuant to section 508.351, subdivision 3, or 508A.351, subdivision 3. The instrument may provide for the conveyance of less than all of the special declarant rights, and is not effective unless executed by the transferor and transferee. A deed in lieu of foreclosure, or other conveyance arising out of a foreclosure or cancellation, shall not be deemed a voluntary transfer within the meaning of this section.

(b) Upon the voluntary transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed on the transferor by this chapter. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights and arising before or after the transfer.

(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Upon the voluntary transfer of any special declarant right, the liability of a successor declarant is as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or the declaration.

(2) A successor to any special declarant right who is not an affiliate of a declarant is subject to all obligations and liabilities imposed by this chapter or by the declaration, except:

(i) misrepresentations by any previous declarant;

(ii) warranty obligations on improvements made by any previous declarant, or made before the common interest community was created;

(iii) breach of any fiduciary obligation by any previous declarant or the declarant's appointees to the board;

(iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer; and

(v) any liability arising out of a special declarant right which was not transferred as provided in subsection (a).

(d) In case of foreclosure of a mortgage or cancellation of a contract for deed or other security interest (or conveyance in lieu thereof), sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of any units or additional real estate, or interest therein, owned by a declarant, a person acquiring title to the property or interests succeeds to all special declarant rights related to the property or interests held by that declarant and acquired by it unless (i) the mortgage instrument or other instrument creating the security interest, (ii) the instrument conveying title, or (iii) a separate instrument signed by the person and recorded within 60 days after the person acquires title to the property or interests, provides for transfer of less than all special declarant rights. The separate instrument need be recorded only against the title to the units or interests other than those being acquired under this subsection, or in the case of a cooperative, against the real estate owned by the cooperative. The declarant shall cease to have or exercise any special declarant rights which are transferred. If the person has limited the transfer of certain special declarant rights as provided in this subsection, then it and its successor's liability shall be limited, as follows:

(1) If the person or its successor limits its rights and liabilities only to maintain models, sales office and signs, and if that party is not an affiliate of a declarant, it is not subject to any liability or obligations as a declarant, except the obligation to provide a disclosure statement and any liability arising from that obligation, and it may not exercise any other special declarant rights.

(2) If the person or its successor is not an affiliate of a declarant, it may declare its intention in a recorded instrument as provided in subsection (a) to acquire all special declarant rights and hold those rights solely for transfer to another person. Thereafter, until the special declarant rights are transferred to a person acquiring title to any unit owned by the successor, or until a separate instrument is recorded permitting exercise of all of those rights, that successor may not exercise any of those rights other than the right to control the board of directors in accordance with the provisions of section 515B.3-103 for the duration of any period of declarant control. So long as any successor may not exercise its special declarant rights under this subsection, it is not subject to any liability or obligation as a declarant other than liability for its acts and omissions under section 515B.3-103.

(e) Any attempted exercise by a purported successor to a special declarant right which is not transferred as provided in this section is void, and any purported successor attempting to exercise that right shall be liable for any damages arising out of its actions.

(f) Nothing in this section shall subject any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter, or the declaration or bylaws.

(g) This section applies only to transfers of special declarant rights that are effective before August 1, 2010.

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

**Sec. 11. [515B.3-1041] SPECIAL DECLARANT RIGHTS; TRANSFER OF SPECIAL DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND TRANSFEREE, AND TERMINATION.**

(a) Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.

(1) A transfer shall be recorded in compliance with applicable law, and is not effective unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded. Transfers recorded on or after the effective date of this section shall be recorded against title to all units in the common interest community.

(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).

(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.

(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited landsale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. From and after the effective date of this section, a separate instrument recorded pursuant to subsection (b), item (iii), shall be recorded against title to all units in the common interest community. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right that relates to the transferor's ownership interest in the units or additional real estate transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.

(c) If a declarant is an individual rather than a legal entity, and the individual dies, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.

(d) A transferor's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:

(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant that arise on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4-112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d), clauses (2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).

(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or

515B.4-118, to any purchaser from or through the transferee.

(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:

(1) Except as set forth in subsection (e), clause (3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4-112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.

(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or 515B.4-118, to any purchaser from or through the transferor.

(f) For purposes of this section, a declarant's obligations under section 515B.3-111(a) arise when the tort or contract violation occurs, a declarant's obligations to a purchaser under section 515B.4-112 arise when the declarant makes an express warranty to the purchaser and a declarant's obligations to a purchaser under sections 515B.4-113 and 515B.4-118(a) arise when the declarant conveys a unit to the purchaser.

(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1-103(33)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4-101(b) and 515B.4-102(b), and sections 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-113, 515B.4-117, and 515B.4-118, and for any express warranties under section 515B.4-112 that the transferee makes to purchasers.

(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent retransfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1-103(33)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3-115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3-103, 515B.3-111, and

515B.3-120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.

(i) Nothing in this section shall subject any transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.

(j) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1-115; or (ii) the conveyance, whether voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.

(k) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions.

(l) Subsections (a) through (i) of this section apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Subsections (j) and (k) of this section apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

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

Sec. 12. Minnesota Statutes 2010, section 515B.3-105, is amended to read:

**515B.3-105 TERMINATION OF CONTRACTS, LEASES, LICENSES.**

~~(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of a declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.~~

~~(b) If entered into prior to the termination of the period of master developer control described in section 515B.2-121, subsection (c), paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.~~

~~(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of~~

~~the period of declarant control or the period of master developer control, as applicable.~~

~~(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a)(iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4-102:~~

~~(1) a lease the termination of which would terminate the common interest community;~~

~~(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);~~

~~(3) an agreement between a declarant, an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities, or other public purpose; or~~

~~(4) subject to the requirements of section 515B.4-110 (a), a lease, easement, covenant, condition, or restriction that (i) is recorded before the recording of the declaration, and (ii) runs in favor of a person other than a declarant or an affiliate of a declarant.~~

(a) If entered into prior to termination of the period of declarant control, (i) any management contract, employment contract, or lease of recreational facilities, or garages or other parking facilities, (ii) any contract, lease, or license binding the association, and to which a declarant or an affiliate of a declarant is a party, or (iii) any contract, lease, or license binding the association or any unit owner other than the declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.

(b) If prior to expiration of the suspension period described in section 515B.2-121, subsection (c), paragraph (3), a contract, lease, or license of a type described in subsection (a) is entered into by a person having authority to appoint the directors of the master association and is binding upon the master association, then the master association, and not any association, may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the suspension period described in section 515B.2-121, subsection (c), paragraph (3), as applicable.

(d) This section does not apply to:

(1) any lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a)

or (b), then that contractual obligation may be terminated pursuant to subsection (c); or

(3) an agreement between a declarant or an affiliate of a declarant, or a person having authority pursuant to section 515B.2-121, subsection (c), paragraph (3), to appoint the directors of the master association, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, or utilities.

(e) This section applies only to common interest communities created before August 1, 2010.

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

**Sec. 13. [515B.3-1051] TERMINATION OF CONTRACTS, LEASES, LICENSES.**

(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.

(b) If entered into prior to the termination of the period of master developer control described in section 515B.2-121, subsection (c), paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided that notice shall be effective only if given within two years following the termination of the period of declarant control or the period of master developer control, as applicable.

(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a), item (iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4-102:

(1) a lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);

(3) an agreement between a declarant or an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities, or other public purpose;



(4) subject to the requirements of section 515B.4-110(a), a lease, easement, covenant, condition, or restriction that is recorded before the recording of the declaration, to the extent that it benefits a person other than a declarant or an affiliate of a declarant; or

(5) a license granted by a declarant pursuant to section 515B.2-109(e).

(e) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 14. Minnesota Statutes 2010, section 515B.3-114, is amended to read:

**515B.3-114 REPLACEMENT RESERVES; SURPLUS FUNDS.**

~~(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:~~

~~(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component, provided that portions of replacement reserves need not be segregated for the replacement of specific components.~~

~~(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that have a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-115(e)(1), or approved in compliance with clause (5).~~

~~(3) The association shall keep the replacement reserves in an account or accounts separate from the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.~~

~~(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.~~

~~(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval (i) by the board and (ii) by unit owners, other than declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments levied under section 515B.3-115(c), or by assessments levied under section 515B.3-115(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.~~

~~(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.~~

~~(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or~~

~~any combination thereof, as determined by the board of directors.~~

(a) The annual budgets of the association shall provide from year to year, on a cumulative basis, for adequate reserve funds to cover the replacement of those parts of the common interest community which the association is obligated to replace. These reserve requirements shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing before January 1, 2012.

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

**Sec. 15. [515B.3-1141] REPLACEMENT RESERVES.**

(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:

(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component; provided that portions of replacement reserves need not be segregated for the replacement of specific components.

(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-1151(e)(1), or approved in compliance with clause (5).

(3) The association shall keep the replacement reserves in an account or accounts separate from the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.

(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.

(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval by (i) the board, and (ii) unit owners, other than the declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments, if the declaration authorizes special assessments, or by assessments levied under section 515B.3-1151(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.

(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing on or after January 1, 2012.

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

Sec. 16. Minnesota Statutes 2010, section 515B.3-115, is amended to read:

**515B.3-115 ASSESSMENTS FOR COMMON EXPENSES.**

~~(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses expense assessments shall be as follows:~~

~~(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common operating expenses of the common interest community, including the payment of and shall fund the replacement reserve component of the common expenses for all units in compliance with as required by subsection (b).~~

~~(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against allocated to their units, except as follows subject to the following:~~

~~(i) If the declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection, and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant, provided that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii) so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.~~

~~(ii) If the alternate common expense plan may be authorized only by including in the declaration~~

~~and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected~~ declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of declarant control, to make up any operating deficit incurred by the association during the period of declarant control. The existence and amount, if any, of the operating deficit shall be determined using the accrual basis of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

~~(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternate common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.~~

~~(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.~~

~~(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.~~

~~(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.~~

~~(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (e) or by assessments described in subsections (e), (f), and (g).~~

~~(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.~~

~~(b) The replacement reserves required by section 515B.3-114 reserve component of the common expenses shall be paid to the association by each unit owner funded for each unit owned~~

~~by that unit owner in accordance with the association's projected annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that required by section 515B.4-102(23) provided that the funding of replacement reserves with respect to a unit shall commence no later than the date that the structure and exterior of the building containing the unit, or the structure and exterior of unit or any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.~~

~~(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual a budget approved at least annually by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g), subject to the requirements of section 515B.3-114(a)(5), with respect to assessments under section 515B.3-115(e)(2).~~

~~(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.~~

~~(e) Unless otherwise required by the declaration:~~

~~(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;~~

~~(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;~~

~~(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and~~

~~(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).~~

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created before August 1, 2010.

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

**Sec. 17. [515B.3-1151] ASSESSMENTS FOR COMMON EXPENSES.**

(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses shall be as follows:

(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common expenses of the common interest community, including the payment of the replacement reserve component of the common expenses for all units in compliance with subsection (b).

(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against their units, except as follows:

(i) The declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of the replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection; and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant; provided, that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit

pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii).

(ii) The alternate common expense plan may be authorized only by including in the declaration and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected.

(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternative common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.

(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.

(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.

(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (c) or by assessments described in subsections (e), (f), and (g).

(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws, or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.

(b) The replacement reserves required by section 515B.3-114 shall be paid to the association by each unit owner for each unit owned by that unit owner in accordance with the association's annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection

(a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that the structure and exterior of the building containing the unit, or the structure and exterior of any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual budget approved by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g). An assessment under section 515B.3-1151(e)(2) for replacement reserves is subject to the requirements of section 515B.3-1141(a)(5).

(d) Except as modified by subsections (a), clauses (1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorney fees and costs incurred by the association in connection with (i) the collection of assessments, and (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines, and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.



(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 18. Minnesota Statutes 2010, section 515B.4-102, is amended to read:

**515B.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.**

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

~~(2) the name and principal address of each the declarant holding any special declarant rights; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);~~

(3) ~~the total number of units which all declarants have~~ the declarant has the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain, ~~and (vii) a description of any declarant licensing rights under section 515B.2-109(e);~~

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that a declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; ~~a description and an explanation of any alternate common expense plan~~ declarant's limited assessment liability under section 515B.3-115(a)(2)(i) 515B.3-115(b); and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the

~~association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;~~

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that: (i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a); (ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the unit or other parcel of real estate being purchased is or may be association or the purchaser of the unit will be subject to a member of a master declaration at the time of the conveyance from the declarant to the purchaser association, a statement to that effect, and all of the following information with respect to the master association: (i) ~~copies of the following documents (which may be in proposed form if the master declaration has not been recorded):~~ a copy of the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) ~~the name and address of the master developer, and~~ the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject to the master ~~declaration~~ association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and ~~a description of any~~ the degree and period of control of the master association and rights to appoint master association directors by a master developer declarant or other person pursuant to section 515B.2-121(e); (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly ~~or other periodic~~ common expense assessment ~~payment~~ for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a ~~master developer declarant or other a~~ person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section ~~515B.2-121(e)(2)~~ 515B.2-121(f)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section ~~515B.4-113(b)(2)~~ 515B.4-112(b); (xii) a statement disclosing, after inquiry of the master

association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) ~~copies a copy of the following documents (which may be in proposed form if the declaration has not been recorded): the declaration and any supplemental declaration, and any amendments thereto (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, or reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; the names of the current members of the association's board of directors; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any (i) contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105 and (ii) any material contracts, leases, or other agreements affecting entered into between the declarant and a governmental entity that affect the common interest community; and~~

(23) a balance sheet for the association, ~~following the creation of the association, current within 90 days of the date of delivery of the disclosure statement;~~ a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for replacement, ~~the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components;~~ (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; (iv) the projected monthly common expense assessment for each type of unit; and (v) ~~a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(e) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a) a footnote or other reference to those components of the common interest community the maintenance, repair, or replacement of which the budget assumes will be funded by assessments under section 515B.3-115(e), rather than by assessments included in the association's annual budget, and a statement referencing section 515B.3-115(e)(1) or (2), as the source of funding. If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.~~

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant

rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created before August 1, 2010.

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

**Sec. 19. [515B.4-1021] DISCLOSURE STATEMENT; GENERAL PROVISIONS.**

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

(2) the name and principal address of each declarant holding any special declarant rights; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);

(3) the total number of units which all declarants have the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community, and the nature of the occupancy, (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or master association will be required to maintain, and (vii) a description of any declarant licensing rights under section 515B.2-109(e);

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; a description of any alternate common expense plan under section 515B.3-115(a)(2)(i); and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to

a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD), or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 to 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that:

(i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a);

(ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and

(iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113(b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative:

(i) whether the unit owners will be entitled, for federal and state tax purposes, to deduct payments

made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative;

(ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and

(iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement:

(i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest, and penalties, and stating the years for which taxes are delinquent; and

(ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the unit or other parcel of real estate being purchased is or may be subject to a master declaration at the time of the conveyance from the declarant to the purchaser, a statement to that effect, and all of the following information with respect to the master association:

(i) copies of the following documents (which may be in proposed form if the master declaration has not been recorded): the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto;

(ii) the name and address of the master developer, and the name, address, and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members;

(iii) a description of any nonresidential use permitted on any property subject to the master declaration;

(iv) a statement as to the estimated maximum number of associations, unit owners, or other persons which may become members of the master association, and a description of any period of control of the master association and rights to appoint master association directors by a master developer or other person pursuant to section 515B.2-121(c);

(v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member of the master association;

(vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made;

(vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly or other periodic common expense assessment payment for each type of unit, lot, or other parcel of real estate which is or is

planned to be subject to assessment;

(viii) a description of any expenses or services not reflected in the budget, paid for or provided by a master developer or another person executing the master declaration, which may become an expense of the master association in the future;

(ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(e)(2);

(x) identification of any liens, defects, or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members;

(xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-113(b)(2);

(xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association;

(xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and

(xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and, if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) copies of the following documents (which may be in proposed form if the declaration has not been recorded): the declaration and any supplemental declaration, and any amendments thereto (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws, and any rules or regulations of the association; the names of the current members of the association's board of directors; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by the purchaser at closing; and a description of any material contracts, leases, or other agreements affecting the common interest community; and

(23) a balance sheet for the association, following the creation of the association, current within 90 days; a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation:

(i) a statement of the amount included in the budget as a reserve for replacement, the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components;



(ii) a statement of any other reserves;

(iii) the projected common expense for each category of expenditures for the association;

(iv) the projected monthly common expense assessment for each type of unit; and

(v) a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(c) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a). If, based upon the association's then-current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20), is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 20. Minnesota Statutes 2010, section 515B.4-115, is amended to read:

**515B.4-115 STATUTE OF LIMITATIONS FOR WARRANTIES.**

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d), shall be commenced within ~~12~~ six months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation ~~signed by one purchaser of a unit shall be binding on any copurchasers of the unit, and the purchasers' successors and purchaser's assigns.~~ With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a the purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the ~~purchaser's~~ purchasers' lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of ~~any interest in~~ the unit by a the declarant to a bona fide purchaser, of the unit other than an affiliate of a declarant, or the time a the purchaser enters into possession of the unit. ~~As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and~~

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first ~~interest in a unit~~ in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was is additional real estate, at the time the first ~~interest in a unit created thereon~~ therein is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 21. **[515B.4-1151] STATUTE OF LIMITATIONS FOR WARRANTIES.**

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d) shall be commenced within 12 months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation signed by one purchaser of a unit shall be binding on any copurchasers of the unit, and successor purchasers' successors and assigns. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of any interest in the unit by a declarant to a bona fide purchaser, other than an affiliate of a declarant, or the time a purchaser enters into possession of the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first interest in a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was additional real estate, at the time the first interest in a unit created thereon is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created on or after August 1, 2010, and before August 1, 2011.

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

Sec. 22. [515B.4-1152] STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d) shall be commenced within 12 months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation signed by one purchaser of a unit shall be binding on any copurchasers of the unit. If an agreement reducing the period of limitations is recorded in compliance with applicable law, the agreement is binding on the purchaser's and copurchaser's successors in title to the unit. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of any interest in the unit by a declarant to a bona fide purchaser, other than an affiliate of a declarant, or the time a purchaser enters into possession of the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first interest in a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was additional real estate, at the time the first interest in a unit created thereon is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created on or after August 1, 2011.

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

Amend the title accordingly

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

H.F. No. 1023 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

Bakk  
Benson

Berglin  
Bonoff

Brown  
Carlson

Chamberlain  
Cohen

Dahms  
Daley

DeKruif	Howe	Lourey	Pappas	Sparks
Fischbach	Ingebrigtsen	Magnus	Parry	Stumpf
Gazelka	Jungbauer	McGuire	Pederson	Thompson
Gerlach	Kelash	Metzen	Pogemiller	Tomassoni
Gimse	Koch	Michel	Robling	Vandever
Goodwin	Kruse	Miller	Rosen	Wiger
Hall	Kubly	Nelson	Saxhaug	Wolf
Hann	Langseth	Newman	Senjem	
Harrington	Latz	Nienow	Sheran	
Higgins	Lillie	Olson	Sieben	
Hoffman	Limmer	Ortman	Skoe	

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Michel, designee of the Chair of the Committee on Rules and Administration, designated H.F. No. 1381 a Special Order to be heard immediately.

### SPECIAL ORDER

**H.F. No. 1381:** A bill for an act relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, accounting, early childhood education, and student transportation; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 13.32, subdivision 6; 119A.50, subdivision 3; 120A.22, subdivision 11; 120A.24; 120A.40; 120B.023, subdivision 2; 120B.11; 120B.12; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 121A.15, subdivision 8; 121A.17, subdivision 3; 122A.09, subdivision 4; 122A.14, subdivision 3; 122A.16, as amended; 122A.18, subdivision 2; 122A.23, subdivision 2; 122A.40, subdivisions 5, 11, by adding a subdivision; 122A.41, subdivisions 1, 2, 5a, 10, 14; 123B.143, subdivision 1; 123B.147, subdivision 3; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.88, by adding a subdivision; 123B.92, subdivisions 1, 5; 124D.091, subdivision 2; 124D.36; 124D.37; 124D.38, subdivision 3; 124D.385, subdivision 3; 124D.39; 124D.40; 124D.42, subdivisions 6, 8; 124D.44; 124D.45, subdivision 2; 124D.52, subdivision 7; 124D.871; 125A.02, subdivision 1; 125A.15; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 127A.30, subdivision 1; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05, subdivision 1; Laws 2011, chapter 5, section 1; proposing coding for new law in Minnesota Statutes, chapter 120B; repealing Minnesota Statutes 2010, sections 120A.26, subdivisions 1, 2; 124D.38, subdivisions 4, 5, 6; 125A.54; 126C.457.

Senator Olson moved to amend H.F. No. 1381, as amended pursuant to Rule 45, adopted by the Senate May 11, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 1167.)

Page 6, after line 13, insert:

"Sec. 8. Minnesota Statutes 2010, section 126C.15, subdivision 2, is amended to read:

Subd. 2. **Building allocation.** (a) A district or cooperative must allocate its compensatory revenue to each school building in the district or cooperative where the children who have generated the revenue are served unless the school district or cooperative has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to student performance measures developed by the school board.

(b) Notwithstanding paragraph (a), a district or cooperative may allocate up to five percent of the amount of compensatory revenue that the district receives to school sites according to a plan adopted by the school board. The money reallocated under this paragraph must be spent for the purposes listed in subdivision 1, but may be spent on students in any grade, including students attending school readiness or other prekindergarten programs.

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

(d) Notwithstanding section 123A.26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

(e) A district or cooperative with school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics between the prior year and the current year may reallocate compensatory revenue among sites to reflect these changes. A district or cooperative must report to the department any adjustments it makes according to this paragraph and the department must use the adjusted compensatory revenue allocations in preparing the report required under section 123B.76, subdivision 3, paragraph (c)."

Page 7, after line 11, insert:

"Sec. 10. Minnesota Statutes 2010, section 127A.30, subdivision 1, is amended to read:

Subdivision 1. **Membership and terms.** (a) A state Permanent School Fund Advisory Committee is established to advise the Department of Natural Resources on the management of permanent school fund land, which is held in trust for the school districts of the state.

(b) The advisory committee must consist of the following persons or their designees: the chairs of the education committees of the legislature, the chairs of the legislative committees with jurisdiction over the K-12 education budget, the chairs of the legislative committees with jurisdiction over the environment and natural resources policy and budget, the chair of the senate Committee on Finance and the chair of the house of representatives Committee on Ways and Means, one member of the house of representatives of the minority party appointed by the minority leader, one senator of the minority party appointed pursuant to the rules of the senate, the commissioner of education, one superintendent from a nonmetropolitan district, one superintendent from a metropolitan area district, one person with expertise on school finance matters, one person with an expertise in forestry, one person with an expertise in minerals and mining, one person with an expertise in real estate development, one person with an expertise in renewable energy, one person with an expertise in finance and land management, and one person with an expertise in natural resource conservation. The school district superintendents and the member with expertise on school finance matters shall be appointed by the commissioner of education. The committee members with areas of expertise in forestry, minerals and mining, real estate development, renewable energy, finance and land management, and natural resource conservation shall be appointed by the commissioner of natural resources. Members of the legislature shall be given the

opportunity to recommend candidates for vacancies on the committee to the commissioners of education and natural resources. The advisory committee must also include a nonvoting member appointed by the commissioner of natural resources.

(c) The commissioner of natural resources shall provide administrative support to the committee.

(d) The members of the committee shall serve without compensation. The members of the Permanent School Fund Advisory Committee shall elect their chair and are bound by the provisions of sections 43A.38 and 116P.09, subdivision 6.

(e) The terms of members appointed by the commissioners of education and natural resources are staggered four-year terms according to section 15.059, subdivision 2. Members may be reappointed at the pleasure of the appointing authority. Members are subject to removal according to section 15.059, subdivision 4.

(f) The other members of the Permanent School Fund Advisory Committee serve at the pleasure of their respective appointing authorities and their terms expire upon the appointment of their successors.

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

Page 7, after line 15, insert:

"Section 1. Minnesota Statutes 2010, section 13.32, subdivision 6, is amended to read:

Subd. 6. **Admissions forms; remedial instruction.** (a) Minnesota postsecondary education institutions, for purposes of reporting and research, may collect on the 1986-1987 admissions form, and disseminate to any public educational agency or institution the following data on individuals: student sex, ethnic background, age, and disabilities. The data shall not be required of any individual and shall not be used for purposes of determining the person's admission to an institution.

(b) A school district that receives information under subdivision 3, paragraph (h) from a postsecondary institution about an identifiable student shall maintain the data as educational data and use that data to conduct studies to improve instruction. Public postsecondary systems annually shall provide summary data to the Department of Education indicating the extent and content of the remedial instruction received in each system during the prior academic year by, and the results of assessment testing and the academic performance of, students who graduated from a Minnesota school district within two years before receiving the remedial instruction, and include as separate categories of summary data the number and percentage of recent high school graduates who prepared for postsecondary academic and career opportunities under section 120B.35, subdivision 3, paragraph (c), and the number of recent high school graduates who graduated as students with disabilities. The department shall evaluate the data and annually report its findings to the education committees of the legislature.

(c) This section supersedes any inconsistent provision of law.

Sec. 2. Minnesota Statutes 2010, section 120A.22, subdivision 11, is amended to read:

Subd. 11. **Assessment of performance.** (a) Each year the performance of every child who is not enrolled in a public school must be assessed using a nationally norm-referenced standardized

~~achievement examination. The superintendent of the district in which the child receives instruction and the person in charge of the child's instruction must agree about the specific examination to be used and the administration and location of the examination or a nationally recognized college entrance exam.~~

~~(b) To the extent the examination in paragraph (a) does not provide assessment in all of the subject areas in subdivision 9, the parent must assess the child's performance in the applicable subject area. This requirement applies only to a parent who provides instruction and does not meet the requirements of subdivision 10, clause (1), (2), or (3).~~

~~(c) If the results of the assessments in paragraphs (a) and (b) indicate that the child's performance on the total battery score is at or below the 30th percentile or one grade level below the performance level for children of the same age, the parent must obtain additional evaluation of the child's abilities and performance for the purpose of determining whether the child has learning problems.~~

~~(d) (b) A child receiving instruction from a nonpublic school, person, or institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements of this subdivision.~~

Sec. 3. Minnesota Statutes 2010, section 120A.24, is amended to read:

#### **120A.24 REPORTING.**

Subdivision 1. **Reports to superintendent.** (a) The person in charge of providing instruction to a child must submit the following information to the superintendent of the district in which the child resides the name, birth date, and address of the child; the annual tests intended to be used under section 120A.22, subdivision 11, if required; the name of each instructor; and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10:

~~(1) by October 1 of each the first school year, the name, birth date, and address of each child receiving instruction the child receives instruction after reaching the age of seven;~~

~~(2) the name of each instructor and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10;~~

~~(3) an annual instructional calendar; and~~

~~(4) for each child instructed by a parent who meets only the requirement of section 120A.22, subdivision 10, clause (6), a quarterly report card on the achievement of the child in each subject area required in section 120A.22, subdivision 9.~~

~~(2) within 15 days of when a parent withdraws a child from public school after age seven to homeschool;~~

~~(3) within 15 days of moving out of a district; and~~

~~(4) by October 1 after a new resident district is established.~~

(b) The person in charge of providing instruction to a child between the ages of seven and 16 must submit, by October 1 of each school year, a letter of intent to continue to provide instruction under this section for all students under the person's supervision and any changes to the information required in paragraph (a) for each student.

(c) The superintendent may collect the required information under this section through an electronic or Web-based format, but must not require electronic submission of information under this section from the person in charge of reporting under this subdivision.

Subd. 2. **Availability of documentation.** (a) The person in charge of providing instruction to a child must ~~make available~~ maintain documentation indicating that the subjects required in section 120A.22, subdivision 9, are being taught and proof that the tests under section 120A.22, subdivision 11, have been administered. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

(b) The parent of a child who enrolls full time in public school after having been enrolled in a home school under section 120A.22, subdivision 6, must provide the enrolling public school or school district with the child's scores on any tests administered to the child under section 120A.22, subdivision 11, and other education-related documents the enrolling school or district requires to determine where the child is placed in school and what course requirements apply. This paragraph does not apply to a shared-time student who does not seek a public school diploma.

(c) The person in charge of providing instruction to a child must make the documentation in this subdivision available to the county attorney when a case is commenced under section 120A.26, subdivision 5; chapter 260C; or when diverted under chapter 260A.

Subd. 3. **Exemptions.** A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements in ~~subdivisions 1 and subdivision 2,~~ except for the requirement in subdivision 1, clause (1).

Subd. 4. **Reports to the state.** A superintendent must make an annual report to the commissioner of education by December 1 of the total number of nonpublic schoolchildren reported as residing in the district. The report must include the following information:

~~(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;~~

~~(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and~~

~~(3) the number of children in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.~~

Subd. 5. **Obligations.** Nothing in this section alleviates the obligations under section 120A.22.

Sec. 4. Minnesota Statutes 2010, section 120A.40, is amended to read:

**120A.40 SCHOOL CALENDAR.**

(a) Except for learning programs during summer, flexible learning year programs authorized under sections 124D.12 to 124D.127, and learning year programs under section 124D.128, a district must not commence an elementary or secondary school year before Labor Day, except as provided under paragraph (b). Days devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.

(b) A district may begin the school year on any day before Labor Day:



(1) to accommodate a construction or remodeling project of \$400,000 or more affecting a district school facility;

(2) if the district has an agreement under section 123A.30, 123A.32, or 123A.35 with a district that qualifies under clause (1); ~~or~~

(3) if the district agrees to the same schedule with a school district in an adjoining state; or

(4) if the district canceled at least two instructional school days in at least two of the previous five consecutive school years because of flooding.

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

Sec. 5. Minnesota Statutes 2010, section 120B.023, subdivision 2, is amended to read:

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. The commissioner must revise and align the state's academic standards and graduation requirements, consistent with the review cycle established in this subdivision and the requirements of chapter 14, but must not proceed to finally adopt revised and realigned academic standards and graduation requirements in rule without first receiving specific legislative authority to do so. 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 are aligned with the state academic standards in mathematics, consistent with section 120B.30, subdivision 1, paragraph (b). 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, or career and technical education 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~~ review the state's academic standards and high school graduation requirements in social studies ~~to require~~ that students must satisfactorily complete ~~the revised social studies standards~~ beginning in the ~~2013-2014~~ 2014-2015 school year. The commissioner must again implement a review of the academic standards and related benchmarks in social studies beginning in the ~~2019-2020~~ 2020-2021 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, 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, world languages, and career and technical education.

(h) With specific legislative authority, the commissioner may adopt common core state standards in any subject and school year listed in any revision cycle under this section that were developed with the participation of the National Governors Association and the Council of Chief State School Officers.

Sec. 6. Minnesota Statutes 2010, section 120B.11, is amended to read:

**120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM, INSTRUCTION, AND STUDENT ACHIEVEMENT.**

Subdivision 1. **Definitions.** For the purposes of this section and section 120B.10, the following terms have the meanings given them.

(a) "Instruction" means methods of providing learning experiences that enable a student to meet state and district academic standards and graduation requirements.

(b) "Curriculum" means district or school adopted programs and written plans for providing students with learning experiences that lead to expected knowledge and skills and college and career readiness.

Subd. 2. **Adopting policies.** A school board shall ~~have in place an adopted written~~ adopt a policy to support and improve teaching and learning that includes the following:

(1) district goals for instruction including the use of best teaching practices, district and school curriculum, and achievement for all student subgroups identified in section 120B.35, subdivision 3,

paragraph (b), clause (2);

(2) a process for evaluating each student's progress toward meeting state and local academic standards and identifying the strengths and weaknesses of instruction in pursuit of student and school success and curriculum affecting students' ~~progress~~ academic achievement and growth;

(3) a performance-based system for periodically reviewing and evaluating the effectiveness of all instruction and curriculum that includes, among other measures to improve teaching and learning, a performance-based system for annually evaluating school principals under section 123B.147, subdivision 3;

(4) a plan for improving instruction, curriculum, and student academic achievement and growth; and

(5) an education effectiveness plan aligned with ~~section~~ sections 120B.023, subdivision 2, and 122A.625 that integrates high quality instruction, rigorous curriculum, and technology, and a collaborative professional culture that develops teacher quality, performance, and effectiveness.

**Subd. 3. District advisory committee.** Each school board shall establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards, consistent with subdivision 2. A district advisory committee, to the extent possible, shall reflect the diversity of the district and its learning school sites, and shall include teachers, parents, support staff, students, and other community residents. The district may establish building site teams as subcommittees of the district advisory committee under subdivision 4. The district advisory committee shall recommend to the school board rigorous academic standards, student achievement goals and measures consistent with section 120B.35, district assessments, and program evaluations. Learning School sites may expand upon district evaluations of instruction, curriculum, assessments, or programs. Whenever possible, parents and other community residents shall comprise at least two-thirds of advisory committee members.

**Subd. 4. Building Site team.** A school may establish a building site team to develop and implement an education effectiveness plan to improve instruction, curriculum, and student achievement at the school site, consistent with subdivision 2. The team shall advise the board and the advisory committee about developing an instruction and curriculum improvement plan that aligns curriculum, assessment of student progress in meeting state and district academic standards, and instruction.

**Subd. 5. Local report.** ~~(a) By October 1 of each year, the school board shall use standard statewide reporting procedures the commissioner develops and adopt a report that includes the following:~~

~~(1) student achievement goals for meeting state academic standards;~~

~~(2) results of local assessment data, and any additional test data;~~

~~(3) the annual school district improvement plans including staff development goals under section 122A.60;~~

~~(4) information about district and learning site progress in realizing previously adopted improvement plans; and~~

~~(5) the amount and type of revenue attributed to each education site as defined in section 123B.04.~~

~~(b) Consistent with requirements for school performance report cards under section 120B.36, subdivision 1, the school board shall publish a summary of the report about student achievement goals, local assessment outcomes, plans for improving curriculum and instruction, and success in realizing previously adopted improvement plans in the local newspaper with the largest circulation in the district, by mail, or by electronic means such as the district Web site. If electronic means are used, school districts must publish notice of the report in a periodical of general circulation in the district. School districts must make copies of the report available to the public on request.~~

~~(c) The title of the report shall contain the name and number of the school district and read "Annual Report on Curriculum, Instruction, and Student Achievement." The report must include at least the following information about advisory committee membership:~~

- ~~(1) the name of each committee member and the date when that member's term expires;~~
- ~~(2) the method and criteria the school board uses to select committee members; and~~
- ~~(3) the date by which a community resident must apply to next serve on the committee.~~

Subd. 6. **Student evaluation.** The school board annually shall provide high school graduates or GED recipients who ~~receive~~ received a diploma or its equivalent from the school district within the two previous school years with an opportunity to report to the board by electronic means on the following:

- (1) the quality of district instruction, curriculum, and services; and
- (2) the quality of district delivery of instruction, curriculum, and services;
- ~~(3) the utility of district facilities; and~~
- ~~(4) the effectiveness of district administration.~~

For purposes of improving instruction and curriculum and consistent with section 13.32, subdivision 6, paragraph (b), the board must forward a summary of its evaluation findings to the commissioner upon request.

Subd. 7. **Periodic report.** Each school district shall periodically ask affected constituencies about their level of satisfaction with school. The district shall include the results of this evaluation in the report required under subdivision 5.

Subd. 8. **Biennial evaluation; assessment program.** At least once every two years, the district report under subdivision 5 shall include an evaluation of the effectiveness of district testing programs, according to the following:

- ~~(1) written objectives of the assessment program;~~
- ~~(2) names of tests and grade levels tested;~~
- ~~(3) use of test results; and~~
- ~~(4) student achievement results compared to previous years.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to reports on the 2011-2012 school year and later.

Sec. 7. Minnesota Statutes 2010, section 120B.12, is amended to read:

**120B.12 READING INTERVENTION PROFICIENTLY BY THE END OF GRADE 3.**

Subdivision 1. **Literacy goal.** The legislature seeks to have Minnesota's children able to read no later than the end of second grade every child succeed in reading at or above grade level by the end of grade 3 and that teachers provide comprehensive, scientifically based reading instruction consistent with section 122A.06, subdivision 4.

Subd. 2. **Identification; report.** For the 2002-2003 2011-2012 school year and later, each school district shall identify before the end of kindergarten, first grade, and second grade students who are at risk of not learning to read not reading at grade level before the end of second grade the current school year. The district must use a locally adopted assessment method. The district must annually report the summary results of the assessment to the commissioner by June 1.

Subd. 2a. **Parent notification and involvement.** Schools must give the parent of each student who is not reading at or above grade level timely information about:

(1) student's assessed reading needs based on grade-level state literacy standards and foundational skills;

(2) reading-related services currently being provided to the student; and

(3) strategies for parents to use in helping their student succeed in becoming grade-level proficient in reading.

Subd. 3. **Intervention.** For each student identified under subdivision 2, the district shall provide a reading intervention method or program to assist the student in reaching instruction to accelerate student growth in order to reach the goal of learning to read no later than reading at or above grade level by the end of second third grade. District intervention methods shall encourage parental involvement and, where possible, collaboration with appropriate school and community programs. Intervention methods may include, but are not limited to, requiring attendance in summer school and, intensified reading instruction that may require that the student be removed from the regular classroom for part of the school day or extended-day programs.

Subd. 4. **Staff development.** Each district shall use the data under subdivision 2 to identify the staff development needs to ensure so that:

(1) elementary teachers are able to implement comprehensive, scientifically based, and balanced reading instruction programs that have resulted in improved student performance in the five reading areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension as defined in section 122A.06, subdivision 4, until the student achieves grade-level reading proficiency;

(2) elementary teachers who are instructing students identified under subdivision 2 are prepared to teach have sufficient training to provide comprehensive, scientifically based reading instruction using the intervention methods or programs selected by the district for the identified students; and

(3) all licensed teachers employed by the district have regular opportunities to improve reading instruction; and

(4) licensed teachers recognize students' diverse needs in cross-cultural settings and are able to serve the oral language and linguistic needs of students who are English language learners.

Subd. 4a. **Local literacy plan.** Consistent with this section, a school district must adopt a local literacy plan to have every child succeed in reading at or above grade level by the end of grade three. The plan must include a process to identify students' level of reading proficiency, notify and involve parents, intervene with students who are not reading at or above grade level, and identify and meet staff development needs.

Subd. 5. **Commissioner.** The commissioner shall recommend to districts multiple assessment tools that will assist districts and teachers with identifying students under subdivision 2. The commissioner shall also make ~~available to districts~~ examples of nationally recognized and research-based instructional methods or programs ~~that available to districts may use~~ to provide comprehensive, scientifically based reading instruction and intervention according to this section."

Page 10, line 27, after the period, insert "The commissioner shall disseminate to charter school authorizers a more comprehensive report containing testing information that contains anonymized data where cell count data are sufficient to protect student identity and that meets the authorizer's needs in fulfilling its obligations under section 124D.10."

Page 12, after line 23, insert:

"Sec. 13. Minnesota Statutes 2010, section 121A.15, subdivision 8, is amended to read:

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, ~~and 4,~~ and 12 to the superintendent of the district in which the person resides by October 1 of ~~each school year~~ the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of

each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.05 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 14. Minnesota Statutes 2010, section 122A.09, subdivision 4, is amended to read:

Subd. 4. **License and rules.** (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board-approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a postsecondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a postsecondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring candidates for initial licenses to successfully complete an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective by September 1, 2001. The rules under this paragraph also must require candidates for initial licenses to teach prekindergarten or elementary students to successfully complete, as part of the examination of licensure-specific teaching skills, test items assessing the candidates' knowledge, skill, and ability in comprehensive, scientifically based reading instruction under section 122A.06, subdivision 4, and their knowledge and understanding of the foundations of reading development, the development of reading comprehension, and reading assessment and instruction, and their ability to integrate that knowledge and understanding.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses based on appropriate professional competencies that are aligned with the board's licensing system and students' diverse learning needs. The board must include these licenses in a statewide differentiated licensing system that creates new leadership roles for successful experienced teachers premised on a collaborative professional culture dedicated

to meeting students' diverse learning needs in the 21st century and formalizes mentoring and induction for newly licensed teachers that is provided through a teacher support framework to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law. Teachers who do not provide direct instruction including, at least, counselors, school psychologists, school nurses, school social workers, audiovisual directors and coordinators, and recreation personnel are exempt from this section.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 15. Minnesota Statutes 2010, section 122A.14, subdivision 3, is amended to read:

Subd. 3. **Rules for continuing education requirements.** The board shall adopt rules establishing continuing education requirements that promote continuous improvement and acquisition of new and relevant skills by school administrators. A retired school principal who serves as a substitute principal or assistant principal for the same person on a day-to-day basis for no more than 15 consecutive school days is not subject to continuing education requirements as a condition of serving as a substitute principal or assistant principal.

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

Page 13, after line 31, insert:



"Sec. 16. Minnesota Statutes 2010, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and ~~after completion thereof,~~ the probationary period in each district in which the teacher is thereafter employed also shall be ~~one year~~ three consecutive years of teaching experience except that for purposes of this provision, the probationary period for principals and assistant principals shall be two consecutive years. A school board may, in its discretion, shorten a three-year probationary period to two years or one year provided that the teacher has served an initial three-year probationary period in another district. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times periodically throughout each school year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days during that school year. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect before ~~July~~ June 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 122A.44.

(b) A board must discharge a probationary teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

(c) A probationary teacher whose first three years of consecutive employment in a district are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(d) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

**EFFECTIVE DATE.** This section is effective June 30, 2011, and applies to all probationary teacher employment contracts ratified or modified after that date.

Sec. 17. Minnesota Statutes 2010, section 122A.40, is amended by adding a subdivision to read:

Subd. 8a. **Probationary period for principals hired internally.** A probationary period of two school years is required for a licensed teacher employed by the board who is subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of two years is required for a licensed assistant principal employed by the

board who is subsequently employed by the board as a licensed principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains the teacher's continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to his or her previous position or an equivalent position, if available, if the teacher is not promoted.

**EFFECTIVE DATE.** This section is effective June 30, 2011, and applies to all contracts for internally hired licensed school principals and assistant principals ratified or modified after that date.

Sec. 18. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

Subd. 11. **Unrequested leave of absence.** (a) The board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave is effective at the close of the school year. In placing teachers on unrequested leave, the board may exempt from the effects of paragraphs (b) to (g) those teachers who teach in a Montessori or a language immersion program, provide instruction in an advanced placement course, or hold a kindergarten through grade 12 instrumental vocal classroom music license and currently serve as a choir, band or orchestra director and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher must be placed on unrequested leave of absence consistent with paragraphs (b) to (g). ~~the board is governed by the following provisions:~~

~~(a)~~ (b) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. A teacher who has acquired continuing contract rights must not be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

~~(b)~~ (c) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed is negotiable;

~~(e)~~ (d) Notwithstanding the provisions of ~~clause (b)~~ paragraph (c), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses;

~~(d)~~ (e) Notwithstanding ~~clauses (a), (b) and (e)~~ paragraphs (b), (c), and (d), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of ~~clause (e)~~ paragraph (d) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

~~(e)~~ (f) Teachers placed on unrequested leave of absence must be reinstated to the positions from

which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement must be in the inverse order of placement on leave of absence. A teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year is negotiable.

~~(f)~~ (g) Appointment of a new teacher must not be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher who may return to employment and assume the duties of the position to which appointed on a future date determined by the board.

~~(g)~~ (h) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave.

~~(h)~~ (i) The unrequested leave of absence must not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service.

~~(i)~~ (j) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate. The teacher's right to reinstatement shall also terminate if the teacher fails to file with the board by April 1 of any year a written statement requesting reinstatement.

~~(j)~~ (k) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence.

~~(k)~~ (l) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment benefits if otherwise eligible.

**EFFECTIVE DATE.** This section is effective June 30, 2011, and applies to all collective bargaining agreements ratified or modified after that date.

Sec. 19. Minnesota Statutes 2010, section 122A.41, subdivision 1, is amended to read:

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of the following subdivisions in this section shall be defined as follows:

(a) **Teachers.** The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if licensed as teachers or as school librarians.

(b) **School board.** The term "school board" includes a majority in membership of any and all boards or official bodies having the care, management, or control over public schools.

(c) **Demote.** The word "demote" means to reduce in rank or to transfer to a lower branch of the service or to a position carrying a lower salary or the compensation a person actually receives in the new position.

(d) **Nonprovisional license.** For purposes of this section, "nonprovisional license" shall mean an entrance, continuing, or life license.

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

Sec. 20. Minnesota Statutes 2010, section 122A.41, subdivision 2, is amended to read:

Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times periodically throughout each school year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A probationary teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

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

Sec. 21. Minnesota Statutes 2010, section 122A.41, subdivision 5a, is amended to read:

Subd. 5a. **Probationary period for principals hired internally.** ~~A board and the exclusive representative of the school principals in the district may negotiate a plan for~~ A probationary period of ~~up to~~ two school years is required for licensed teachers employed by the board who are subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of ~~up to~~ two years is required for licensed assistant principals employed by the board who are subsequently employed by the board as a licensed school principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains his or her continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to his or her previous position or an equivalent position, if available, if the teacher is not promoted.

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

Sec. 22. Minnesota Statutes 2010, section 122A.41, subdivision 10, is amended to read:

Subd. 10. **Decision, when rendered.** The hearing must be concluded and a decision in writing, stating the grounds on which it is based, rendered within 25 days after giving of such notice. Where the hearing is before a school board the teacher may be discharged or demoted upon the affirmative vote of a majority of the members of the board. If the charges, or any of such, are found to be true, the board conducting the hearing must discharge, demote, or suspend the teacher, as seems to be for the best interest of the school. ~~A teacher must not be discharged for either of the causes specified in subdivision 6, clause (3), except during the school year, and then only upon charges filed at least four months before the close of the school sessions of such school year.~~

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

Sec. 23. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

Subd. 14. **Services terminated by discontinuance or lack of pupils; preference given.** (a) ~~A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is qualified.~~ In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must receive first consideration for other positions in the district for which that teacher is qualified and must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan providing otherwise.

(b) The board may exempt from the effects of paragraph (a) those teachers who teach in a Montessori or a language immersion program or provide instruction in an advanced placement course and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher shall be discontinued based on the inverse order in which the teacher was employed.

~~(b)~~ (c) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the Board of Teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.

~~(e)~~ (d) Notwithstanding the provisions of clause (a), a teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.

Sec. 24. Minnesota Statutes 2010, section 123B.143, subdivision 1, is amended to read:

Subdivision 1. **Contract; duties.** All districts maintaining a classified secondary school must employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent must be vested in the board in all cases. An individual employed by a board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent

employment contract must not exceed a period of three years. A board, at its discretion, may or may not renew an employment contract. A board must not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract must be contingent upon the employee completing the terms of an existing contract. If a contract between a board and a superintendent is terminated prior to the date specified in the contract, the board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 122A.40, subdivision 9 or 13. A superintendent shall not rely upon an employment contract with a board to assert any other continuing contract rights in the position of superintendent under section 122A.40. Notwithstanding the provisions of sections 122A.40, subdivision 10 or 11, 123A.32, 123A.75, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

- (1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;
- (2) recommend to the board employment and dismissal of teachers;
- (3) annually evaluate each school principal assigned responsibility for supervising a school building within the district, consistent with section 123B.147, subdivision 3, paragraph (b);
- (4) superintend school grading practices and examinations for promotions;
- ~~(4)~~ (5) make reports required by the commissioner; and
- ~~(5)~~ (6) perform other duties prescribed by the board.

**EFFECTIVE DATE.** This section is effective for the 2013-2014 school year and later.

Sec. 25. Minnesota Statutes 2010, section 123B.147, subdivision 3, is amended to read:

Subd. 3. **Duties; evaluation.** (a) The principal shall provide administrative, supervisory, and instructional leadership services, under the supervision of the superintendent of schools of the district and ~~in accordance with~~ according to the policies, rules, and regulations of the school board of education, for the planning, management, operation, and evaluation of the education program of the building or buildings to which the principal is assigned.

(b) To enhance a principal's leadership skills and support and improve teaching practices, school performance, and student achievement, a district must develop and implement a performance-based system for annually evaluating school principals assigned to supervise a school building within the district. The evaluation must be designed to improve teaching and learning by supporting the principal in shaping the school's professional environment and developing teacher quality, performance, and effectiveness. The annual evaluation must:

(1) support and improve a principal's instructional leadership, organizational management, and professional development, and strengthen the principal's capacity in the areas of instruction, supervision, evaluation, and teacher development;

(2) include formative and summative evaluations;

(3) be consistent with a principal's job description, a district's long-term plans and goals, and the principal's own professional multiyear growth plans and goals, all of which must support the principal's leadership behaviors and practices, rigorous curriculum, school performance, and high-quality instruction;

(4) include on-the-job observations and previous evaluations;

(5) allow surveys to help identify a principal's effectiveness, leadership skills and processes, and strengths and weaknesses in exercising leadership in pursuit of school success;

(6) use longitudinal data on student academic growth as an evaluation component and incorporate district achievement goals and targets; and

(7) be linked to professional development that emphasizes improved teaching and learning, curriculum and instruction, student learning, and a collaborative professional culture.

The provisions of this paragraph are intended to provide districts with sufficient flexibility to accommodate district needs and goals related to developing, supporting, and evaluating principals.

**EFFECTIVE DATE.** This section is effective for the 2013-2014 school year and later."

Page 14, delete section 9 and insert:

"Sec. 27. Minnesota Statutes 2010, section 124D.10, is amended to read:

**124D.10 CHARTER SCHOOLS.**

Subdivision 1. **Purposes.** (a) The purpose of this section is to:

(1) improve pupil learning and student achievement;

(2) increase learning opportunities for pupils;

(3) encourage the use of different and innovative teaching methods;

(4) measure learning outcomes and create different and innovative forms of measuring outcomes;

(5) establish new forms of accountability for schools; and

(6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(b) ~~This section does not provide a means to keep open a school that otherwise would be closed or to reestablish a school that has been closed. Applicants in these circumstances bear the burden of proving that conversion to a charter school or establishment of a new charter school fulfills the purposes specified in this subdivision, independent of the school's closing~~ a school board decides to close. However, a school board may endorse or authorize the establishing of a charter school to

replace the school the board decided to close. Applicants seeking a charter under this circumstance must demonstrate to the authorizer that the charter sought is substantially different in purpose and program from the school the board closed and that the proposed charter satisfies the requirements of this subdivision. If the school board that closed the school authorizes the charter, it must document in its affidavit to the commissioner that the charter is substantially different in program and purpose from the school it closed.

An authorizer shall not approve an application submitted by a charter school developer under subdivision 4, paragraph (a), if the application does not comply with this subdivision. The commissioner shall not approve an affidavit submitted by an authorizer under subdivision 4, paragraph (b), if the affidavit does not comply with this subdivision.

Subd. 2. **Applicability.** This section applies only to charter schools formed and operated under this section.

Subd. 3. **Authorizer.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

"Application" to receive approval as an authorizer means the proposal an eligible authorizer submits to the commissioner under paragraph (c) before that authorizer is able to submit any affidavit to charter to a school.

"Application" under subdivision 4 means the charter school business plan a school developer submits to an authorizer for approval to establish a charter school that documents the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the authorizer requests. The application also shall include a "statement of assurances" of legal compliance prescribed by the commissioner.

"Affidavit" means a written statement the authorizer submits to the commissioner for approval to establish a charter school under subdivision 4 attesting to its review and approval process before chartering a school.

~~"Affidavit" means the form an authorizer submits to the commissioner that is a precondition to a charter school organizing an affiliated nonprofit building corporation under subdivision 17a.~~

(b) The following organizations may authorize one or more charter schools:

(1) a school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19;

(2) a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, excluding a nonpublic sectarian or religious institution, any person other than a natural person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution, and any other charitable organization under this clause that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose, that:

(i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations;



(ii) is registered with the attorney general's office; and

(iii) ~~reports an end-of-year fund balance of at least \$2,000,000; and~~

~~(iv) is incorporated in the state of Minnesota and has been operating continuously for at least five years but does not operate a charter school;~~

(3) a Minnesota private college, notwithstanding clause (2), that grants two- or four-year degrees and is registered with the Minnesota Office of Higher Education under chapter 136A; community college, state university, or technical college governed by the Board of Trustees of the Minnesota State Colleges and Universities; or the University of Minnesota; or

(4) a nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may authorize one or more charter schools if the charter school has operated for at least three years under a different authorizer and if the nonprofit corporation has existed for at least 25 years.

(5) ~~no more than three~~ single-purpose authorizers that are charitable, nonsectarian organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota whose sole purpose is to charter schools. Eligible organizations interested in being approved as an authorizer under this paragraph must submit a proposal to the commissioner that includes the provisions of paragraph (c) and a five-year financial plan. Such authorizers shall consider and approve applications using the criteria provided in subdivision 4 and shall not limit the applications it solicits, considers, or approves to any single curriculum, learning program, or method.

(c) An eligible authorizer under this subdivision must apply to the commissioner for approval as an authorizer before submitting any affidavit to the commissioner to charter a school. The application for approval as a charter school authorizer must demonstrate the applicant's ability to implement the procedures and satisfy the criteria for chartering a school under this section. The commissioner must approve or disapprove an application within ~~60~~ 45 business days of the application deadline. If the commissioner disapproves the application, the commissioner must notify the applicant of the specific deficiencies in writing and the applicant then has 20 business days to address the deficiencies to the commissioner's satisfaction. After the 20 business days expire, the commissioner has 15 business days to make a final decision to approve or disapprove the application. Failing to address the deficiencies to the commissioner's satisfaction makes an applicant ineligible to be an authorizer. The commissioner, in establishing criteria for approval, must consider the applicant's:

- (1) capacity and infrastructure;
- (2) application criteria and process;
- (3) contracting process;
- (4) ongoing oversight and evaluation processes; and
- (5) renewal criteria and processes.

(d) ~~The affidavit to be submitted to and evaluated by~~ An applicant must include in its application to the commissioner must include to be an approved authorizer at least the following:

- (1) how chartering schools is a way for the organization to carry out its mission;

(2) a description of the capacity of the organization to serve as an authorizer, including the personnel who will perform the authorizing duties, their qualifications, the amount of time they will be assigned to this responsibility, and the financial resources allocated by the organization to this responsibility;

(3) a description of the application and review process the authorizer will use to make decisions regarding the granting of charters, ~~which will include at least the following:~~

~~(i) how the statutory purposes defined in subdivision 1 are addressed;~~

~~(ii) the mission, goals, program model, and student performance expectations;~~

~~(iii) an evaluation plan for the school that includes criteria for evaluating educational, organizational, and fiscal plans;~~

~~(iv) the school's governance plan;~~

~~(v) the financial management plan; and~~

~~(vi) the administration and operations plan;~~

(4) a description of the type of contract it will arrange with the schools it charters that meets the provisions of subdivision 6 ~~and defines the rights and responsibilities of the charter school for governing its educational program, controlling its funds, and making school management decisions;~~

(5) the process to be used for providing ongoing oversight of the school consistent with the contract expectations specified in clause (4) that assures that the schools chartered are complying with both the provisions of applicable law and rules, and with the contract;

(6) a description of the criteria and process the authorizer will use to grant expanded applications under subdivision 4, paragraph (j);

~~(7) the process for making decisions regarding the renewal or termination of the school's charter based on evidence that demonstrates the academic, organizational, and financial competency of the school, including its success in increasing student achievement and meeting the goals of the charter school agreement; and~~

~~(7)(8) an assurance specifying that the organization is committed to serving as an authorizer for the full five-year term.~~

~~(e) A disapproved applicant under this paragraph section may resubmit an application during a future application period.~~

~~(f) If the governing board of an approved authorizer that has chartered multiple schools votes to withdraw as an approved authorizer for a reason unrelated to any cause under subdivision 23, the authorizer must notify all its chartered schools and the commissioner in writing by July 15 of its intent to withdraw as an authorizer on June 30 in the next calendar year. The commissioner may approve the transfer of a charter school to a new authorizer under this paragraph after the new authorizer submits an affidavit to the commissioner.~~

~~(e)(g) The authorizer must participate in department-approved training.~~

~~(f)(h) An authorizer that chartered a school before August 1, 2009, must apply by June 30,~~

2011, to the commissioner for approval, under paragraph (c), to continue as an authorizer under this section. For purposes of this paragraph, an authorizer that fails to submit a timely application is ineligible to charter a school.

~~(g)~~ (i) The commissioner shall review an authorizer's performance every five years in a manner and form determined by the commissioner and may review an authorizer's performance more frequently at the commissioner's own initiative or at the request of a charter school operator, charter school board member, or other interested party. The commissioner, after completing the review, shall transmit a report with findings to the authorizer. If, consistent with this section, the commissioner finds that an authorizer has not fulfilled the requirements of this section, the commissioner may subject the authorizer to corrective action, which may include terminating the contract with the charter school board of directors of a school it chartered. The commissioner must notify the authorizer in writing of any findings that may subject the authorizer to corrective action and the authorizer then has 15 business days to request an informal hearing before the commissioner takes corrective action. If the commissioner terminates a contract between an authorizer and a charter school under this paragraph, the commissioner may assist the charter school in acquiring a new authorizer.

~~(h)~~ (j) The commissioner may at any time take corrective action against an authorizer, including terminating an authorizer's ability to charter a school for:

(1) failing to demonstrate the criteria under paragraph (c) under which the commissioner approved the authorizer;

(2) violating a term of the chartering contract between the authorizer and the charter school board of directors; ~~or~~

(3) unsatisfactory performance as an approved authorizer; or

(4) any good cause shown that provides the commissioner a legally sufficient reason to take corrective action against an authorizer.

Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from a school developer, may charter a licensed teacher under section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed teachers under section 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the authorizer's affidavit under paragraph (b). The school must be organized and operated as a ~~cooperative under chapter 308A~~ ~~or~~ nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section.

Notwithstanding sections 465.717 and 465.719, a school district, subject to this section and section 124D.11, may create a corporation for the purpose of establishing a charter school.

(b) Before the operators may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the authorizer and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the authorizer's affidavit within 60 business days

of receipt of the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business days to address the deficiencies. If the authorizer does not address deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain commissioner approval precludes an authorizer from chartering the school that is the subject of this affidavit.

(c) The authorizer may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this section or does not meet the ready-to-open standards that are part of the authorizer's oversight and evaluation process or are stipulated in the charter school contract.

(d) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a ~~cooperative under chapter 308A or as a~~ nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members who are not related parties until a timely election for members of the ongoing charter school board of directors is held according to the school's articles and bylaws under paragraph (f). A charter school board of directors must be composed of at least five members who are not related parties. Staff members employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents or legal guardians of children enrolled in the school are the voters eligible to elect the members of the school's board of directors. A charter school must notify eligible voters of the school board election dates at least 30 days before the election. Board of director meetings must comply with chapter 13D.

(e) Upon the request of an individual, the charter school must make available in a timely fashion the minutes of meetings of the board of directors, and of members and committees having any board-delegated authority; financial statements showing all operations and transactions affecting income, surplus, and deficit during the school's last annual accounting period; and a balance sheet summarizing assets and liabilities on the closing date of the accounting period. A charter school also must post on its official Web site information identifying its authorizer and indicate how to contact that authorizer and include that same information about its authorizer in other school materials that it makes available to the public.

(f) Every charter school board member shall attend ~~department-approved~~ ongoing training throughout the member's term on board governance, including training on the board's role and responsibilities, employment policies and practices, and financial management. A board member who does not begin the required initial training within six months ~~of~~ after being seated and complete ~~the required~~ that training within 12 months of being seated on the board is ineligible to continue to serve as a board member.

(g) The ongoing board must be elected before the school completes its third year of operation. Board elections must be held at a time during ~~a time when the school is in session~~ year but may not be conducted on days when the school is closed for holidays or vacations. The charter school board of directors shall be composed of at least five nonrelated members and include: (i) at least one licensed teacher employed at the school or a licensed teacher providing instruction under ~~a contract~~ contract between the charter school and a cooperative; (ii) the parent or legal guardian of a student enrolled in the charter school who is not an employee of the charter school; and (iii) an interested community member who is not employed by the charter school and does not have a child enrolled in the school. The board may be a teacher majority board composed of teachers described in this

paragraph. The chief financial officer and the chief administrator ~~are~~ may only serve as ex-officio nonvoting board members and may not serve as a voting member of the board. Charter school employees shall not serve on the board unless item (i) applies. Contractors providing facilities, goods, or services to a charter school shall not serve on the board of directors of the charter school. Board bylaws shall outline the process and procedures for changing the board's governance model, consistent with chapter 317A. A board may change its governance model only:

(1) by a majority vote of the board of directors and the licensed teachers employed by the school, including licensed teachers providing instruction under a contract between the school and a cooperative; and

(2) with the authorizer's approval.

Any change in board governance must conform with the board structure established under this paragraph.

(h) The granting or renewal of a charter by an authorizer must not be conditioned upon the bargaining unit status of the employees of the school.

(i) The granting or renewal of a charter school by an authorizer must not be contingent on the charter school being required to contract, lease, or purchase services from the authorizer. Any potential contract, lease, or purchase of service from an authorizer must be disclosed to the commissioner, accepted through an open bidding process, and be a separate contract from the charter contract. The school must document the open bidding process. An authorizer must not enter into a contract to provide management and financial services for a school that it authorizes, unless the school documents that it received at least two competitive bids.

(j) An authorizer may permit the board of directors of a charter school to expand the operation of the charter school to additional sites or to add additional grades at the school beyond those described in the authorizer's original affidavit as approved by the commissioner only after submitting a supplemental affidavit for approval to the commissioner in a form and manner prescribed by the commissioner. The supplemental affidavit ~~must show~~ document that:

(1) ~~the expansion proposed by the charter school is supported by~~ expansion plan demonstrates need and projected enrollment;

(2) ~~the charter school expansion is warranted, at a minimum, by longitudinal data demonstrating students' improved academic performance and growth on statewide assessments under chapter 120B;~~

(3) ~~the charter school is fiscally~~ financially sound and ~~has the financial capacity~~ the financing needed to implement the proposed expansion exists; and

(4) ~~the authorizer finds that the~~ charter school has the governance structure and management capacity to carry out its expansion.

(k) The commissioner shall have 30 business days to review and comment on the supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in the supplemental affidavit and the authorizer then has ~~30~~ 20 business days to address, to the commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school may not expand grades or add sites until the commissioner has approved the supplemental affidavit. The commissioner's

approval or disapproval of a supplemental affidavit is final.

Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a member of the charter school board of directors if the individual, an immediate family member, or the individual's partner is an owner, employee or agent of, or a contractor with a for-profit or nonprofit entity or individual with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates this prohibition is individually liable to the charter school for any damage caused by the violation.

(b) No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when:

- (1) the board member, employee, officer, or agent;
- (2) the immediate family of the board member, employee, officer, or agent;
- (3) the partner of the board member, employee, officer, or agent; or
- (4) an organization that employs, or is about to employ any individual in clauses (1) to (3),

has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(c) Any employee, agent, or board member of the authorizer who participates in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or nonrenewal process or decision is ineligible to serve on the board of directors of a school chartered by that authorizer.

(d) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

(e) The conflict of interest provisions under this subdivision do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.

(f) The conflict of interest provisions under this subdivision do not apply to a teacher who provides services to a charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

Subd. 5. **Conversion of existing schools.** A board of an independent or special school district may convert one or more of its existing schools to charter schools under this section if 60 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 6. **Charter contract.** The authorization for a charter school must be in the form of a written contract signed by the authorizer and the board of directors of the charter school. The contract must be completed within 45 business days of the commissioner's approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a copy of the signed charter contract within ten business days of its execution. The contract for a charter school must be in writing and contain at least the following:

(1) a declaration of the purposes in subdivision 1 that the school intends to carry out and how the school will report its implementation of those purposes;

(2) a description of the school program and the specific academic and nonacademic outcomes that pupils must achieve;

(3) a statement of admission policies and procedures;

(4) a governance, management, and administration plan for the school;

(5) signed agreements from charter school board members to comply with all federal and state laws governing organizational, programmatic, and financial requirements applicable to charter schools;

(6) the criteria, processes, and procedures that the authorizer will use for ongoing oversight of operational, financial, and academic performance;

(7) the performance evaluation that is a prerequisite for reviewing a charter contract under subdivision 15;

(8) types and amounts of insurance liability coverage to be obtained by the charter school;

(9) a provision to indemnify and hold harmless the authorizer and its officers, agents, and employees from liability for civil damages or criminal liability arising from the operation of the charter school, and the commissioner, consistent with section 3.736;

(10) the term of the initial contract, which may be up to three years for an initial contract plus an additional preoperational planning year, and up to five years for a renewed contract or a contract with a new authorizer after a transfer of authorizers, if warranted by the school's academic, financial, and operational performance;

~~(10)~~ (11) how the board of directors or the operators of the charter school will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability;

~~(11)~~ (12) the process and criteria the authorizer intends to use to monitor and evaluate the fiscal and student performance of the charter school, consistent with subdivision 15; and

~~(12)~~ (13) the plan for an orderly closing of the school under chapter ~~308A~~ or 317A, if the closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract, and that includes establishing the responsibilities of the school board of directors and the authorizer and notifying the commissioner, authorizer, school district in which the charter school is located, and parents of enrolled students about the closure, the transfer of student records to students' resident districts, and procedures for closing financial operations.

Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the commissioner and its authorizer by December 31 each year.

(b) The charter school, with the assistance of the auditor conducting the audit, must include with the report a copy of all charter school agreements for corporate management services. If the entity that provides the professional services to the charter school is exempt from taxation under section

501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986.

(c) ~~If the commissioner receives an audit report indicating~~ finds that a material weakness exists in the financial reporting systems of a charter school, the charter school must submit a written report to the commissioner explaining how the material weakness will be resolved. An auditor, as a condition of providing financial services to a charter school, must agree to make available information about a charter school's financial audit to the commissioner and authorizer upon request.

**Subd. 7. Public status; exemption from statutes and rules.** A charter school is a public school and is part of the state's system of public education. A charter school is exempt from all statutes and rules applicable to a school, school board, or school district unless a statute or rule is made specifically applicable to a charter school or is included in this section.

**Subd. 8. Federal, state, and local requirements.** (a) A charter school shall meet all federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A school authorized by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(d) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. An authorizer may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution. A charter school student must be released for religious instruction, consistent with section 120A.22, subdivision 12, clause (3).

(e) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(f) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(g) A charter school may not charge tuition.

(h) A charter school is subject to and must comply with chapter 363A and section 121A.04.

(i) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(j) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner and authorizer. The Department of Education, state auditor, legislative auditor, or authorizer may



conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(k) A charter school is a district for the purposes of tort liability under chapter 466.

(l) A charter school must comply with chapters 13 and 13D; and sections 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(m) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

(n) A charter school offering online courses or programs must comply with section 124D.095.

(o) A charter school and charter school board of directors are subject to chapter 181.

(p) A charter school must comply with section 120A.22, subdivision 7, governing the transfer of students' educational records and sections 138.163 and 138.17 governing the management of local records.

(q) A charter school that provides early childhood health and developmental screening must comply with sections 121A.16 to 121A.19.

Subd. 8a. **Aid reduction.** The commissioner may reduce a charter school's state aid under section 127A.42 or 127A.43 if the charter school board fails to correct a violation under this section.

Subd. 8b. **Aid reduction for violations.** The commissioner may reduce a charter school's state aid by an amount not to exceed 60 percent of the charter school's basic revenue for the period of time that a violation of law occurs.

Subd. 9. **Admission requirements.** A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.

A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish a lottery policy and process that it must use when accepting pupils by lot.

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

A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this subdivision.

The charter school shall not distribute any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

Subd. 10. **Pupil performance.** A charter school must design its programs to at least meet the outcomes adopted by the commissioner for public school students. In the absence of the commissioner's requirements, the school must meet the outcomes contained in the contract with the authorizer. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the commissioner for public school students.

Subd. 11. **Employment and other operating matters.** (a) A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The charter school's state aid may be reduced under section 127A.43 if the school employs a teacher who is not appropriately licensed or approved by the board of teaching. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees. The charter school board is subject to section 181.932. When offering employment to a prospective employee, a charter school must give that employee a written description of the terms and conditions of employment and the school's personnel policies.

(b) A person, without holding a valid administrator's license, may perform administrative, supervisory, or instructional leadership duties. The board of directors shall establish qualifications for persons that hold administrative, supervisory, or instructional leadership roles. The qualifications shall include at least the following areas: instruction and assessment; human resource and personnel management; financial management; legal and compliance management; effective communication; and board, authorizer, and community relationships. The board of directors shall use those qualifications as the basis for job descriptions, hiring, and performance evaluations of those who hold administrative, supervisory, or instructional leadership roles. The board of directors and an individual who does not hold a valid administrative license and who serves in an administrative, supervisory, or instructional leadership position shall develop a professional development plan. Documentation of the implementation of the professional development plan of these persons shall be included in the school's annual report.

(c) The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

Subd. 12. **Pupils with a disability.** A charter school must comply with sections 125A.02, 125A.03 to 125A.24, and 125A.65 and rules relating to the education of pupils with a disability as though it were a district.

Subd. 13. **Length of school year.** A charter school must provide instruction each year for at least the number of days required by section 120A.41. It may provide instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

Subd. 14. **Annual public reports.** A charter school must publish an annual report approved by the board of directors. The annual report must at least include information on school enrollment, student attrition, governance and management, staffing, finances, academic performance, operational performance, innovative practices and implementation, and future plans. A charter school must distribute the annual report by publication, mail, or electronic means to the commissioner, authorizer, school employees, and parents and legal guardians of students enrolled

in the charter school and must also post the report on the charter school's official Web site. The reports are public data under chapter 13.

Subd. 15. **Review and comment.** (a) The authorizer shall provide a formal written evaluation of the school's performance before the authorizer renews the charter contract. The department must review and comment on the authorizer's evaluation process at the time the authorizer submits its application for approval and each time the authorizer undergoes its five-year review under subdivision 3, paragraph (e).

(b) An authorizer shall monitor and evaluate the fiscal, operational, and student performance of the school, and may for this purpose annually assess a charter school a fee according to paragraph (c). The agreed-upon fee structure must be stated in the charter school contract.

(c) The fee that each charter school pays to an authorizer each year is the greater of:

(1) the basic formula allowance for that year; or

(2) the lesser of:

(i) the maximum fee factor times the basic formula allowance for that year; or

(ii) the fee factor times the basic formula allowance for that year times the charter school's adjusted marginal cost pupil units for that year. The fee factor equals .005 in fiscal year 2010, .01 in fiscal year 2011, .013 in fiscal year 2012, and .015 in fiscal years 2013 and later. The maximum fee factor equals 1.5 in fiscal year 2010, 2.0 in fiscal year 2011, 3.0 in fiscal year 2012, and 4.0 in fiscal years 2013 and later.

(d) The department and any charter school it charters must not assess or pay a fee under paragraphs (b) and (c).

(e) For the preoperational planning period, the authorizer may assess a charter school a fee equal to the basic formula allowance.

(f) By September 30 of each year, an authorizer shall submit to the commissioner a statement of expenditures related to chartering activities during the previous school year ending June 30. A copy of the statement shall be given to all schools chartered by the authorizer.

Subd. 16. **Transportation.** (a) 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 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.

Subd. 17. **Leased space.** A charter school may lease space from an independent or special school board eligible to be an authorizer, other public organization, private, nonprofit nonsectarian organization, private property owner, or a sectarian organization if the leased space is constructed as a school facility. The department must review and approve or disapprove leases in a timely manner.

Subd. 17a. **Affiliated nonprofit building corporation.** (a) Before a charter school may organize an affiliated nonprofit building corporation (i) to renovate or purchase an existing facility to serve as a school or (ii) to construct a new school facility, an authorizer must submit an affidavit to the commissioner for approval in the form and manner the commissioner prescribes, and consistent with paragraphs (b) and (c) or (d).

(b) An affiliated nonprofit building corporation under this subdivision must:

(1) be incorporated under section 317A and comply with applicable Internal Revenue Service regulations;

(2) submit to the commissioner each fiscal year a list of current board members and a copy of its annual audit; and

(3) comply with government data practices law under chapter 13.

An affiliated nonprofit building corporation must not serve as the leasing agent for property or facilities it does not own. A charter school that leases a facility from an affiliated nonprofit building corporation that does not own the leased facility is ineligible to receive charter school lease aid. The state is immune from liability resulting from a contract between a charter school and an affiliated nonprofit building corporation.

(c) A charter school may organize an affiliated nonprofit building corporation to renovate or purchase an existing facility to serve as a school if the charter school:

(1) has been operating for at least five consecutive school years ~~and the school's charter has been renewed for a five-year term~~;

(2) has had a net positive unreserved general fund balance as of June 30 in the preceding five

fiscal years;

(3) has a long-range strategic and financial plan;

(4) completes a feasibility study of available buildings; and

(5) documents ~~sustainable~~ enrollment projections and the need to use an affiliated building corporation to renovate or purchase an existing facility to serve as a school.

(d) A charter school may organize an affiliated nonprofit building corporation to construct a new school facility if the charter school:

(1) demonstrates the lack of facilities available to serve as a school;

(2) has been operating for at least eight consecutive school years;

(3) has had a net positive unreserved general fund balance as of June 30 in the preceding eight fiscal years;

(4) completes a feasibility study of facility options;

(5) has a long-range strategic and financial plan that includes ~~sustainable~~ enrollment projections and demonstrates the need for constructing a new school facility; and

(6) has a positive review and comment from the commissioner under section 123B.71.

**Subd. 19. Disseminate information.** (a) The authorizer, the operators, and the department must disseminate information to the public on how to form and operate a charter school. Charter schools must disseminate information about how to use the offerings of a charter school. Targeted groups include low-income families and communities, students of color, and students who are at risk of academic failure.

(b) Authorizers, operators, and the department also may disseminate information about the successful best practices in teaching and learning demonstrated by charter schools.

**Subd. 20. Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made before February 1 in the school year preceding the school year in which the teacher intends to leave, or February 1 of the calendar year in which the teacher's leave is scheduled to terminate. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the Teachers' Retirement Association account under chapters 354 and 354A, consistent with subdivision 22.

**Subd. 21. Collective bargaining.** Employees of the board of directors of a charter school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of a charter school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school must be separate from

any other units within an authorizing district, except that bargaining units may remain part of the appropriate unit within an authorizing district, if the employees of the school, the board of directors of the school, the exclusive representative of the appropriate unit in the authorizing district, and the board of the authorizing district agree to include the employees in the appropriate unit of the authorizing district.

Subd. 22. **Teacher and other employee retirement.** (a) Teachers in a charter school must be public school teachers for the purposes of chapters 354 and 354a.

(b) Except for teachers under paragraph (a), employees in a charter school must be public employees for the purposes of chapter 353.

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a) The duration of the contract with an authorizer must be for the term contained in the contract according to subdivision 6. The authorizer may or may not renew a contract at the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 business days before not renewing or terminating a contract, the authorizer shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the authorizer within 15 business days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for ~~a~~ an informal hearing within the 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the authorizer shall give ten business days' notice to the charter school's board of directors of the hearing date. The authorizer shall conduct an informal hearing before taking final action. The authorizer shall take final action to renew or not renew a contract no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed under this paragraph, the school must be dissolved according to the applicable provisions of chapter ~~308A~~ or 317A.

(c) If the authorizer and the charter school board of directors mutually agree to terminate or not renew the contract, a ~~change in~~ transfer of authorizers is allowed if the commissioner approves the transfer to a different eligible authorizer to authorize the charter school. Both parties must jointly submit their intent in writing to the commissioner to mutually terminate the contract. The authorizer that is a party to the existing contract ~~at least~~ must inform the ~~approved different eligible~~ proposed authorizer about the fiscal and operational status and student performance of the school. Before the commissioner determines whether to approve a transfer of authorizer, the ~~commissioner first~~ proposed authorizer must ~~determine whether the charter school and prospective new authorizer can identify and effectively resolve those circumstances causing the previous authorizer and the charter~~

~~school to mutually agree to terminate the contract~~ identify and mitigate any outstanding issues in the proposed charter contract that were unresolved in the previous charter contract. If no transfer of authorizer is approved, the school must be dissolved according to applicable law and the terms of the contract.

(d) The commissioner, after providing reasonable notice to the board of directors of a charter school and the existing authorizer, and after providing an opportunity for a public hearing, may terminate the existing contract between the authorizer and the charter school board if the charter school has a history of:

(1) failure to meet pupil performance requirements ~~contained in the contract~~ consistent with state law;

(2) financial mismanagement or failure to meet generally accepted standards of fiscal management; or

(3) repeated or major violations of the law.

~~(e) If the commissioner terminates a charter school contract under subdivision 3, paragraph (g), the commissioner shall provide the charter school with information about other eligible authorizers.~~

Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from entering a lease of real property with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

(b) For purposes of this section and section 124D.11:

(1) "related party" means an affiliate or immediate relative of the other party in question, an affiliate of an immediate relative, or an immediate relative of an affiliate;

(2) "affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(3) "immediate family" means an individual whose relationship by blood, marriage, adoption, or partnering is no more remote than first cousin;

(4) "person" means an individual or entity of any kind; and

(5) "control" means the ability to affect the management, operations, or policy actions or decisions of a person, whether through ownership of voting securities, by contract, or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (a), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

(d) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section 124D.11, subdivision 4, clause (1).

Subd. 24. **Pupil enrollment upon nonrenewal or termination of charter school contract.** If a contract is not renewed or is terminated according to subdivision 23, a pupil who attended the

school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 124D.03 at any time. Applications and notices required by section 124D.03 must be processed and provided in a prompt manner. The application and notice deadlines in section 124D.03 do not apply under these circumstances. The closed charter school must transfer the student's educational records within ten business days of closure to the student's school district of residence where the records must be retained or transferred under section 120A.22, subdivision 7.

Subd. 25. **Extent of specific legal authority.** (a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The commissioner, an authorizer, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or authorize. The board of directors shall obtain at least the amount of and types of insurance up to the applicable tort liability limits under chapter 466. The charter school board must submit a copy of the insurance policy to its authorizer and the commissioner before starting operations. The charter school board must submit changes in its insurance carrier or policy to its authorizer and the commissioner within 20 business days of the change."

Page 17, delete section 10

Page 20, delete section 11

Page 22, after line 31, insert:

"Sec. 28. Minnesota Statutes 2010, section 124D.19, subdivision 3, is amended to read:

Subd. 3. **Community education director.** (a) Except as provided under paragraphs (b) and (c), each board shall employ a licensed community education director. The board shall submit the name of the person who is serving as director of community education under this section on the district's annual community education report to the commissioner.

(b) A board may apply to the Minnesota Board of School Administrators under Minnesota Rules, part 3512.3500, subpart 9, for authority to use an individual who is not licensed as a community education director.

(c) A board of a district with a total population of ~~2,000~~ 6,000 or less may identify an employee who holds a valid ~~Minnesota principal or~~ superintendent license under Minnesota Rules, chapter 3512, to serve as director of community education. To be eligible for an exception under this paragraph, the board shall certify in writing to the commissioner that the district has not placed a licensed director of community education on unrequested leave.

Sec. 29. Minnesota Statutes 2010, section 124D.36, is amended to read:

**124D.36 CITATION; ~~MINNESOTA—YOUTHWORKS~~ SERVEMINNESOTA INNOVATION ACT.**

Sections 124D.37 to 124D.45 shall be cited as the "~~Minnesota Youthworks~~ ServeMinnesota Innovation Act."



Sec. 30. Minnesota Statutes 2010, section 124D.37, is amended to read:

**124D.37 PURPOSE OF MINNESOTA—YOUTHWORKS SERVE MINNESOTA INNOVATION ACT.**

The purposes of sections 124D.37 to 124D.45 are to:

- (1) renew the ethic of civic responsibility in Minnesota;
- (2) empower youth to improve their life opportunities through literacy, job placement, and other essential skills;
- (3) empower government to meet its responsibility to prepare young people to be contributing members of society;
- (4) help meet human, educational, environmental, and public safety needs, particularly those needs relating to poverty;
- (5) prepare a citizenry that is academically competent, ready for work, and socially responsible;
- (6) demonstrate the connection between youth and community service, community service and education, and education and meaningful opportunities in the business community;
- (7) demonstrate the connection between providing opportunities for at-risk youth and reducing crime rates and the social costs of troubled youth;
- (8) create linkages for a comprehensive youth service and learning program in Minnesota including school age programs, higher education programs, youth work programs, and service corps programs; and
- (9) coordinate federal and state activities that advance the purposes in this section.

Sec. 31. Minnesota Statutes 2010, section 124D.38, subdivision 3, is amended to read:

Subd. 3. **Federal law.** "Federal law" means Public Law 401-640 111-13, as amended, or any other federal law or program assisting youth community service, work-based learning, or youth transition from school to work.

Sec. 32. Minnesota Statutes 2010, section 124D.385, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The commission shall:

- (1) develop, with the assistance of the governor, the commissioner of education, and affected state agencies, a comprehensive state plan to provide services under sections 124D.37 to 124D.45 and federal law;
- (2) actively pursue public and private funding sources for services, including funding available under federal law;
- (3) administer the ~~Youthworks~~ ServeMinnesota Innovation grant program under sections 124D.39 to 124D.44, including soliciting and approving grant applications from eligible organizations, and administering individual postservice benefits;
- (4) establish an evaluation plan for programs developed and services provided under sections

124D.37 to 124D.45;

(5) report to the governor, commissioner of education, and legislature; and

(6) administer the federal AmeriCorps Program.

(b) Nothing in sections 124D.37 to 124D.45 precludes an organization from independently seeking public or private funding to accomplish purposes similar to those described in paragraph (a).

Sec. 33. Minnesota Statutes 2010, section 124D.39, is amended to read:

**124D.39 ~~YOUTHWORKS SERVE~~MINNESOTA INNOVATION PROGRAM.**

The ~~Youthworks~~ ServeMinnesota Innovation program is established to provide funding for the commission to leverage federal and private funding to fulfill the purposes of section 124D.37. The Youthworks ServeMinnesota Innovation program must supplement existing programs and services. The program must not displace existing programs and services, existing funding of programs or services, or existing employment and employment opportunities. No eligible organization may terminate, layoff, or reduce the hours of work of an employee to place or hire a program participant. No eligible organization may place or hire an individual for a project if an employee is on layoff from the same or a substantially equivalent position.

Sec. 34. Minnesota Statutes 2010, section 124D.40, is amended to read:

**124D.40 ~~YOUTHWORKS SERVE~~MINNESOTA INNOVATION GRANTS.**

Subdivision 1. **Application.** An eligible organization interested in receiving a grant under sections 124D.39 to 124D.44 may prepare and submit an application to the commission. As part of the grant application process, the commission must establish and publish grant application guidelines that: (1) are consistent with this subdivision, section 124D.37, and Public Law 111-13; (2) include criteria for reviewing an applicant's cost-benefit analysis; and (3) require grantees to use research-based measures of program outcomes to generate valid and reliable data that are available to the commission for evaluation and public reporting purposes.

Subd. 2. **Grant authority.** The commission must use any state appropriation and any available federal funds, including any grant received under federal law, to award grants to establish programs for Youthworks ServeMinnesota Innovation. At least one grant each must be available for a metropolitan proposal, a rural proposal, and a statewide proposal. If a portion of the suburban metropolitan area is not included in the metropolitan grant proposal, the statewide grant proposal must incorporate at least one suburban metropolitan area. In awarding grants, the commission may select at least one residential proposal and one nonresidential proposal.

Sec. 35. Minnesota Statutes 2010, section 124D.42, subdivision 6, is amended to read:

Subd. 6. **Program training.** The commission must, within available resources:

- (1) orient each grantee organization in the nature, philosophy, and purpose of the program; ~~and~~
- (2) build an ethic of community service through general community service training; and
- (3) provide guidance on integrating performance-based measurement into program models.

Sec. 36. Minnesota Statutes 2010, section 124D.42, subdivision 8, is amended to read:

Subd. 8. **Minnesota reading corps program.** (a) A Minnesota reading corps program is established to provide ~~Americorps~~ ServeMinnesota Innovation members with a data-based problem-solving model of literacy instruction to use in helping to train local Head Start program providers, other prekindergarten program providers, and staff in schools with students in kindergarten through grade 3 to evaluate and teach early literacy skills to children age 3 to grade 3.

(b) Literacy programs under this subdivision must comply with the provisions governing literacy program goals and data use under section 119A.50, subdivision 3, paragraph (b).

(c) The commission must submit a biennial report to the legislature that records and evaluates literacy program data to determine the efficacy of the programs under this subdivision.

Sec. 37. Minnesota Statutes 2010, section 124D.44, is amended to read:

#### **124D.44 MATCH REQUIREMENTS.**

~~Youthworks~~ ServeMinnesota Innovation grant funds must be used for the living allowance, cost of employer taxes under sections 3111 and 3301 of the Internal Revenue Code of 1986, workers' compensation coverage, health benefits, training and evaluation for each program participant, and administrative expenses, which must not exceed ~~five~~ seven percent of total program costs. ~~Youthworks grant funds may also be used to supplement applicant resources to fund postservice benefits for program participants.~~ Applicant resources, from sources and in a form determined by the commission, must be used to provide for all other program costs, ~~including the portion of the applicant's obligation for postservice benefits that is not covered by state or federal grant funds and such costs as supplies, materials, transportation, and salaries and benefits of those staff directly involved in the operation, internal monitoring, and evaluation of the program.~~

Sec. 38. Minnesota Statutes 2010, section 124D.45, subdivision 2, is amended to read:

Subd. 2. **Interim report.** The commission must report ~~semiannually~~ annually to the legislature with interim recommendations to change the program.

Sec. 39. Minnesota Statutes 2010, section 124D.52, subdivision 7, is amended to read:

Subd. 7. **Performance tracking system.** (a) By July 1, 2000, each approved adult basic education program must develop and implement a performance tracking system to provide information necessary to comply with federal law and serve as one means of assessing the effectiveness of adult basic education programs. For required reporting, longitudinal studies, and program improvement, the tracking system must be designed to collect data on the following core outcomes for learners who have completed ~~participation~~ participating in the adult basic education program:

(1) demonstrated improvements in literacy skill levels in reading, writing, speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;

(2) placement in, retention in, or completion of postsecondary education, training, unsubsidized employment, or career advancement; ~~and~~

(3) receipt of a secondary school diploma or its recognized equivalent; and

(4) reduction in participation in the diversionary work program, Minnesota family investment program, and food support education and training program.

(b) A district, group of districts, state agency, or private nonprofit organization providing an adult basic education program may meet this requirement by developing a tracking system based on either or both of the following methodologies:

- (1) conducting a reliable follow-up survey; or
- (2) submitting student information, including Social Security numbers for data matching.

Data related to obtaining employment must be collected in the first quarter following program completion or can be collected while the student is enrolled, if known. Data related to employment retention must be collected in the third quarter following program exit. Data related to any other specified outcome may be collected at any time during a program year.

(c) When a student in a program is requested to provide the student's Social Security number, the student must be notified in a written form easily understandable to the student that:

(1) providing the Social Security number is optional and no adverse action may be taken against the student if the student chooses not to provide the Social Security number;

(2) the request is made under section 124D.52, subdivision 7;

(3) if the student provides the Social Security number, it will be used to assess the effectiveness of the program by tracking the student's subsequent career; and

(4) the Social Security number will be shared with the Department of Education; Minnesota State Colleges and Universities; Office of Higher Education; Department of Human Services; and ~~the~~ Department of Employment and Economic Development in order to accomplish the purposes ~~of this section~~ described in paragraph (a) and will not be used for any other purpose or reported to any other governmental entities.

(d) Annually a district, group of districts, state agency, or private nonprofit organization providing programs under this section must forward the tracking data collected to the Department of Education. For the purposes of longitudinal studies on the employment status of former students under this section, the Department of Education must forward the Social Security numbers to the Department of Employment and Economic Development to electronically match the Social Security numbers of former students with wage detail reports filed under section 268.044. The results of data matches must, for purposes of this section and consistent with the requirements of the United States Code, title 29, section 2871, of the Workforce Investment Act of 1998, be compiled in a longitudinal form by the Department of Employment and Economic Development and released to the Department of Education in the form of summary data that does not identify the individual students. The Department of Education may release this summary data. State funding for adult basic education programs must not be based on the number or percentage of students who decline to provide their Social Security numbers or on whether the program is evaluated by means of a follow-up survey instead of data matching.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies through the 2020-2021 school year.

Sec. 40. Minnesota Statutes 2010, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, ~~the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides, and~~ the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety, and the student's parent has certified the student's homeschool and home-classroom driver training status on the form approved by the commissioner;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) For the purposes of determining compliance with the certification in paragraph (a), clause (1), item (ii), the commissioner may request verification of a student's homeschool status from the superintendent of the school district in which the student resides, and the superintendent shall provide that verification.

(c) The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

Sec. 41. Minnesota Statutes 2010, section 171.17, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of:

(1) manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) a violation of section 169A.20 or 609.487;

(3) a felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under section 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the application, ownership, or operation of a motor vehicle, including on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student;

(6) except as this section otherwise provides, three charges of violating within a period of 12 months any of the provisions of chapter 169 or of the rules or municipal ordinances enacted in conformance with chapter 169, for which the accused may be punished upon conviction by imprisonment;

(7) two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);

(8) the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b);

(9) an offense in another state that, if committed in this state, would be grounds for revoking the driver's license; or

(10) a violation of an applicable speed limit by a person driving in excess of 100 miles per hour. The person's license must be revoked for six months for a violation of this clause, or for a longer minimum period of time applicable under section 169A.53, 169A.54, or 171.174.

(b) The department shall immediately revoke the school bus endorsement of a driver upon receiving a record of the driver's conviction of the misdemeanor offense described in section 169.443, subdivision 7.

Sec. 42. Minnesota Statutes 2010, section 171.22, subdivision 1, is amended to read:

Subdivision 1. **Violations.** With regard to any driver's license, including a commercial driver's license, it shall be unlawful for any person:

(1) to display, cause or permit to be displayed, or have in possession, any fictitious or fraudulently altered driver's license or Minnesota identification card;

(2) to lend the person's driver's license or Minnesota identification card to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license or Minnesota identification card not issued to that person;

(4) to use a fictitious name or date of birth to any police officer or in any application for a driver's license or Minnesota identification card, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

- (5) to alter any driver's license or Minnesota identification card;
- (6) to take any part of the driver's license examination for another or to permit another to take the examination for that person;
- (7) to make a counterfeit driver's license or Minnesota identification card;
- (8) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer; ~~or~~
- (9) to display as a valid driver's license any canceled, revoked, or suspended driver's license. A person whose driving privileges have been withdrawn may display a driver's license only for identification purposes; or
- (10) to submit a false affidavit or statement to the department on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student.

Sec. 43. Minnesota Statutes 2010, section 181A.05, subdivision 1, is amended to read:

Subdivision 1. **When issued.** Any minor 14 or 15 years of age who wishes to work on school days during school hours shall first secure an employment certificate. The certificate shall be issued only by the school district superintendent, the superintendent's agent, ~~or~~ some other person designated by the Board of Education, or by the person in charge of providing instruction for students enrolled in nonpublic schools under section 120A.22, subdivision 4. The employment certificate shall be issued only for a specific position with a designated employer and shall be issued only in the following circumstances:

- (1) if a minor is to be employed in an occupation not prohibited by rules promulgated under section 181A.09 and as evidence thereof presents a signed statement from the prospective employer; and
- (2) if the parent or guardian of the minor consents to the employment; and
- (3) if the issuing officer believes the minor is physically capable of handling the job in question and further believes the best interests of the minor will be served by permitting the minor to work.

Sec. 44. Laws 2011, chapter 5, section 1, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to individuals who complete a teacher preparation program ~~by the end of~~ beginning no later than the 2013-2014 school year or later. The Board of Teaching shall submit to the kindergarten through grade 12 education finance and reform committees of the legislature by April 1, 2012, a progress report on its implementation of teacher performance assessment under paragraph (d).

**Sec. 45. IMPLEMENTING A PERFORMANCE-BASED EVALUATION SYSTEM FOR PRINCIPALS.**

(a) To implement the requirements of Minnesota Statutes, sections 123B.143, subdivision 1, clause (3), and 123B.147, subdivision 3, paragraph (b), the commissioner of education, the Minnesota Association of Secondary School Principals, and the Minnesota Association of Elementary School Principals must convene a group of recognized and qualified experts and

interested stakeholders, including principals, superintendents, teachers, school board members, and parents, among other stakeholders, to develop a performance-based system model for annually evaluating school principals. In developing the system model, the group must at least consider how principals develop and maintain:

- (1) high standards for student performance;
- (2) rigorous curriculum;
- (3) quality instruction;
- (4) a culture of learning and professional behavior;
- (5) connections to external communities;
- (6) systemic performance accountability; and
- (7) leadership behaviors that create effective schools and improve school performance, including how to plan for, implement, support, advocate for, communicate about, and monitor continuous and improved learning.

The group also may consider whether to establish a multitiered evaluation system that supports newly licensed principals in becoming highly skilled school leaders and provides opportunities for advanced learning for more experienced school leaders.

(b) The commissioner, the Minnesota Association of Secondary School Principals, and the Minnesota Association of Elementary School Principals must submit a written report and all the group's working papers to the education committees of the legislature by February 1, 2012, discussing the group's responses to paragraph (a) and its recommendations for a performance-based system model for annually evaluating school principals. The group convened under this section expires June 1, 2012.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to principal evaluations beginning in the 2013-2014 school year and later.

**Sec. 46. SCHOOL DISTRICTS' JOINT OPERATION AND INNOVATIVE DELIVERY OF EDUCATION; PILOT PROJECT.**

Subdivision 1. **Establishment; requirements for participation.** (a) A four-year pilot project is established to allow groups of school districts to pursue benefits of operating jointly to deliver innovative education programs and activities and share resources.

(b) To participate in this pilot project, a group of three or more school districts must form a joint partnership to share elements common to all the partners in providing innovative delivery of educational programs and activities and sharing resources. The member districts of a joint partnership selected by the commissioner may elect to admit another district at any time during the pilot project.

(c) A partnership under paragraph (b) interested in participating in this pilot project must apply to the commissioner of education in the form and manner the commissioner prescribes, consistent with subdivision 2. When submitting its application, each participating school district in each partnership also must submit to the commissioner:



(1) a formally adopted school board agreement identifying the specific joint use opportunities the participating district intends to pursue as part of the joint partnership; and

(2) a binding and specific plan for a minimum of two years and a maximum of four years to provide innovative delivery of educational programs and activities and to share resources, consistent with this paragraph.

A participating district's plan under clause (2) must describe its educational objectives and processes for seeking advice and collaboration and managing the project; its budget arrangements that include regular reviews of expenditures; its administrative structures for implementing and evaluating the plan; and any other applicable conditions, regulations, responsibilities, duties, provisions, fee schedules, or legal considerations needed to implement its plan.

(d) The member districts of the joint partnership must comply with Minnesota Statutes, section 124D.10, subdivision 8, and are otherwise exempt from all statutes and rules applicable to a school, school board, or school district unless a statute or rule is made specifically applicable to a school under Minnesota Statutes, section 124D.10.

(e) Notwithstanding paragraph (d), a school district that participates in the pilot project under this section shall continue to receive revenue and maintain its taxation authority as if it were a school district and not participating in the pilot project.

(f) Notwithstanding paragraph (d), a school district that participates in the pilot project under this section shall continue to be organized and governed by an elected school board with the general powers under Minnesota Statutes, section 123B.02, as if it were a school district and not participating in the pilot project.

Subd. 2. **Role of the commissioner.** The commissioner, using available department resources and staff, may select up to six applicants under subdivision 1, paragraph (b), from throughout the state to participate in this pilot project. The commissioner may consider and select only those applicants that the commissioner determines have fully complied with the requirements in subdivision 1.

Subd. 3. **Pilot project evaluation.** The commissioner must gather and evaluate data on the measurable success of the joint partnerships in delivering innovative education programs and activities and sharing resources. The commissioner must use the data to develop and submit to the education policy and finance committees of the legislature by February 1, 2016, a report evaluating the success of this pilot project and recommend whether or not to continue or expand the pilot project.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to the 2011-2012 through 2014-2015 school year.

Sec. 47. **90-DAY GOOD FAITH EFFORT EXCEPTION.**

Notwithstanding Minnesota Statutes, section 128C.07, subdivision 3, or other law to the contrary, the Minnesota State High School League must work with Albany Senior High in Independent School District No. 745, Albany, Melrose Secondary School in Independent School District No. 740, Melrose, and New London-Spicer Senior High in Independent School District No. 345, New London-Spicer, to help each school arrange an interscholastic conference membership after a 90-day good faith attempt by the school to join a conference.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies through December 31, 2011.

Sec. 48. **TIERED LICENSURE ADVISORY TASK FORCE.**

(a) The Board of Teaching and the commissioner of education must jointly convene and facilitate an advisory task force to develop recommendations for a statewide tiered teacher licensure system, consistent with Minnesota Statutes, section 122A.09, subdivision 4, paragraph (g), that is premised on:

(1) appropriate research-based professional competencies that include content skills, adaptive expertise, college-readiness preparation, multicultural skills, use of student performance data, and skills for fostering citizenship, among other competencies that improve all students' learning outcomes;

(2) ongoing teacher professional growth to enable teachers to develop multiple professional competencies;

(3) an assessment system for evaluating teachers' performance that is aligned with student expectations and value-added measures of student outcomes and includes an emphasis on developing students' reading and literacy skills, among other measures and outcomes, and recognizes and rewards successful teachers;

(4) an expectation that teachers progress through various stages of teaching practice throughout their teaching careers and receive opportunities for leadership roles commensurate with their practice and competency; and

(5) a periodic evaluation of the licensing structure to determine its effectiveness in meeting students' learning needs.

(b) Each of the following entities shall appoint a member to the advisory task force: Education Minnesota, the Minnesota Association of School Administrators, the Minnesota Association for Colleges of Teacher Education, the Minnesota Association of School Personnel Administrators, the Minnesota Elementary School Principals Association, the Minnesota Secondary School Principals Association, the Parents United Network, the Minnesota Business Partnership, the Minnesota Chamber of Commerce, the Minnesota School Boards Association, and the Minnesota Association of Career and Technical Educators. The executive director of the Board of Teaching or the commissioner may appoint additional advisory task force members. Task force members may seek advice from the Educator Development and Resource Center at the University of Minnesota on developing a research-based framework for a differentiated licensure system in Minnesota.

(c) Upon request, the commissioner must provide the task force with technical, fiscal, and other support services.

(d) Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The commissioner may reimburse task force members from the Department of Education's current operating budget but may not compensate task force members for task force activities.

(e) The executive director of the Board of Teaching and the commissioner must submit by February 15, 2012, a joint report to the education policy and finance committees of the legislature

recommending a differentiated statewide teacher licensing structure.

(f) The advisory task force expires on February 16, 2012.

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

Sec. 49. **REPEALER.**

Minnesota Statutes 2010, sections 120A.26, subdivisions 1 and 2; and 124D.38, subdivisions 4, 5, and 6, are repealed."

Page 23, after line 13, insert:

"Sec. 2. Minnesota Statutes 2010, section 125A.0942, subdivision 3, is amended to read:

Subd. 3. **Physical holding or seclusion.** Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

(1) the physical holding or seclusion must be the least intrusive intervention that effectively responds to the emergency;

(2) physical holding or seclusion must end when the threat of harm ends and the staff determines that the child can safely return to the classroom or activity;

(3) staff must directly observe the child while physical holding or seclusion is being used;

(4) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion shall document, as soon as possible after the incident concludes, the following information:

(i) a description of the incident that led to the physical holding or seclusion;

(ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;

(iii) the time the physical holding or seclusion began and the time the child was released; and

(iv) a brief record of the child's behavioral and physical status;

(5) the room used for seclusion must:

(i) be at least six feet by five feet;

(ii) be well lit, well ventilated, adequately heated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others; ~~and~~

(6) before using a room for seclusion, a school must:

(i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room; and

(7) until August 1, 2013, a school district may use prone restraints under the following conditions:

(i) a district has provided to the department a list of staff that have had specific training on the use of prone restraints;

(ii) a district provides information on the type of training that was provided and by whom;

(iii) prone restraints may only be used by staff who have received specific training;

(iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department or on a district's restrictive procedure documentation form; and

(v) a district, prior to using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints.

The department will report back to the chairs and ranking minority members of the committees with primary jurisdiction over education policy in the senate and the house of representatives by February 1, 2013, on the use of prone restraints in the schools."

Page 30, line 32, delete "or"

Page 30, delete lines 33 to 35

Page 31, delete lines 1 and 2 and insert:

"(6) for public announcement systems and emergency communications devices; or

(7) for building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a)."

Page 34, after line 26, insert:

"Section 1. Minnesota Statutes 2010, section 123B.88, is amended by adding a subdivision to read:

Subd. 1a. **Full-service school zones.** The board may establish a full-service school zone by adopting a written resolution and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency. The pupil transportation must be intended to stabilize enrollment and reduce mobility at the school located in a full-service school zone.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2010, section 123B.88, subdivision 13, is amended to read:

Subd. 13. **Area learning center pupils between buildings.** Districts may provide between-building bus transportation along school bus routes when space is available, for pupils attending programs at an area learning center. The transportation is ~~only~~ permitted between schools ~~and if it does not increase the district's expenditures for transportation.~~ The cost of these services shall be considered part of the authorized cost ~~for nonregular transportation~~ for the purpose of section 123B.92.

Sec. 3. Minnesota Statutes 2010, section 123B.90, subdivision 3, is amended to read:

Subd. 3. **Model training program.** The commissioner shall develop and maintain a comprehensive model list of school bus safety training program instructional materials for pupils who ride the bus that includes bus safety curriculum for both classroom and practical instruction ~~and age-appropriate instructional materials.~~

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2010, 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 III vehicles, as defined in section 169.011, subdivision 71, 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 or other location chosen by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, 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, residence, or program 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 full-service school zones, 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 full-service school zones, 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) transportation of pupils for a curricular field trip activity on a school bus equipped with a power lift when the power lift is required by a student's disability or section 504 plan; and

(viii) services described in clauses (i) to (vi) (vii), 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 initial aid 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 for revenue for fiscal year 2012 and later."

Page 35, after line 35, insert:

## "ARTICLE 7

### EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2010, section 119A.50, subdivision 3, is amended to read:

Subd. 3. **Early childhood literacy programs.** (a) A research-based early childhood literacy program premised on actively involved parents, ongoing professional staff development, and high quality early literacy program standards is established to increase the literacy skills of children participating in Head Start to prepare them to be successful readers and to increase families' participation in providing early literacy experiences to their children. Program providers must:

- (1) work to prepare children to be successful learners;
- (2) work to close the achievement gap for at-risk children;
- (3) use an integrated approach to early literacy that daily offers a literacy-rich classroom learning environment composed of books, writing materials, writing centers, labels, rhyming, and other related literacy materials and opportunities;
- (4) support children's home language while helping the children master English and use multiple literacy strategies to provide a cultural bridge between home and school;
- (5) use literacy mentors, ongoing literacy groups, and other teachers and staff to provide appropriate, extensive professional development opportunities in early literacy and classroom strategies for preschool teachers and other preschool staff;
- (6) use ongoing data-based assessments that enable preschool teachers to understand, plan, and implement literacy strategies, activities, and curriculum that meet children's literacy needs and continuously improve children's literacy; and
- (7) foster participation by parents, community stakeholders, literacy advisors, and evaluation specialists.

Program providers are encouraged to collaborate with qualified, community-based early childhood providers in implementing this program and to seek nonstate funds to supplement the program.

(b) Program providers under paragraph (a) interested in extending literacy programs to children in kindergarten through grade 3 may elect to form a partnership with an eligible organization under section 124D.38, subdivision 2, or 124D.42, subdivision 6, clause (3), schools enrolling children in kindergarten through grade 3, and other interested and qualified community-based entities to provide ongoing literacy programs that offer seamless literacy instruction focused on closing the literacy achievement gap. To close the literacy achievement gap by the end of third grade, partnership members must agree to use best efforts and practices and to work collaboratively to



implement a seamless literacy model from age three to grade 3, consistent with paragraph (a). Literacy programs under this paragraph must collect and use literacy data to:

(1) evaluate children's literacy skills; and

(2) formulate specific intervention strategies to provide reading instruction to children premised on the outcomes of formative and summative assessments and research-based indicators of literacy development.

The literacy programs under this paragraph also must train teachers and other providers working with children to use the assessment outcomes under clause (2) to develop and use effective, long-term literacy coaching models that are specific to the program providers.

~~(c) The commissioner must collect and evaluate literacy data on children from age three to grade 3 who participate in literacy programs under this section to determine the efficacy of early literacy programs on children's success in developing the literacy skills that they need for long-term academic success and the programs' success in closing the literacy achievement gap. Annually by February 1, the commissioner must report to the education policy and finance committees of the legislature on the ongoing impact of these programs.~~

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

Sec. 2. Minnesota Statutes 2010, section 121A.17, subdivision 3, is amended to read:

Subd. 3. **Screening program.** (a) A screening program must include at least the following components: developmental assessments, hearing and vision screening or referral, immunization review and referral, the child's height and weight, identification of risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified. The district and the person performing or supervising the screening must provide a parent or guardian with clear written notice that the parent or guardian may decline to answer questions or provide information about family circumstances that might affect development and identification of risk factors that may influence learning. The notice must state "Early childhood developmental screening helps a school district identify children who may benefit from district and community resources available to help in their development. Early childhood developmental screening includes a vision screening that helps detect potential eye problems but is not a substitute for a comprehensive eye exam." The notice must clearly state that declining to answer questions or provide information does not prevent the child from being enrolled in kindergarten or first grade if all other screening components are met. If a parent or guardian is not able to read and comprehend the written notice, the district and the person performing or supervising the screening must convey the information in another manner. The notice must also inform the parent or guardian that a child need not submit to the district screening program if the child's health records indicate to the school that the child has received comparable developmental screening performed within the preceding 365 days by a public or private health care organization or individual health care provider. The notice must be given to a parent or guardian at the time the district initially provides information to the parent or guardian about screening and must be given again at the screening location.

(b) All screening components shall be consistent with the standards of the state commissioner of health for early developmental screening programs. A developmental screening program must not provide laboratory tests or a physical examination to any child. The district must request from

the public or private health care organization or the individual health care provider the results of any laboratory test or physical examination within the 12 months preceding a child's scheduled screening.

(c) If a child is without health coverage, the school district must refer the child to an appropriate health care provider.

(d) A board may offer additional components such as nutritional, physical and dental assessments, review of family circumstances that might affect development, blood pressure, laboratory tests, and health history.

(e) 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."

### RECESS

Senator Stumpf 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.

### CALL OF THE SENATE

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

The Senate resumed consideration of the Olson amendment to H.F. No. 1381.

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

H.F. No. 1381 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 38 and nays 24, as follows:

Those who voted in the affirmative were:

Benson	Fischbach	Ingebrigtsen	Miller	Robling
Bonoff	Gazelka	Jungbauer	Nelson	Rosen
Brown	Gerlach	Koch	Newman	Senjem
Carlson	Gimse	Kruse	Nienow	Thompson
Chamberlain	Hall	Lillie	Olson	Vandever
Dahms	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	

Those who voted in the negative were:

Bakk	Higgins	McGuire	Saxhaug	Stumpf
Cohen	Kelash	Metzen	Sheran	Tomassoni
Dibble	Kubly	Pappas	Sieben	Torres Ray
Goodwin	Langseth	Pogemiller	Skoe	Wiger
Harrington	Lourey	Reinert	Sparks	

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Pederson moved that S.F. No. 1130 be taken from the table. The motion prevailed.

**S.F. No. 1130:** A bill for an act relating to unemployment insurance; modifying unemployment insurance and workforce development provisions; amending Minnesota Statutes 2010, sections 116L.17, subdivision 1; 116L.561, subdivision 7; 268.035, subdivisions 4, 19a, 20, 23, 29, 32; 268.051, subdivisions 5, 6, 8; 268.057, subdivision 2; 268.07, subdivisions 2, 3b; 268.085, subdivision 3; 268.095, subdivision 10; 268.115, subdivision 1; 268.184, subdivisions 1, 1a; Laws 2009, chapter 78, article 3, section 16.

### CONCURRENCE AND REPASSAGE

Senator Pederson moved that the Senate concur in the amendments by the House to S.F. No. 1130 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1130 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Gerlach	Kruse	Nienow	Sieben
Benson	Gimse	Kubly	Olson	Skoe
Bonoff	Goodwin	Langseth	Ortman	Sparks
Brown	Hall	Lillie	Pappas	Stumpf
Carlson	Hann	Limmer	Parry	Thompson
Chamberlain	Harrington	Lourey	Pederson	Tomassoni
Cohen	Higgins	Magnus	Pogemiller	Torres Ray
Dahms	Hoffman	McGuire	Reinert	Vanderveer
Daley	Howe	Metzen	Robling	Wiger
DeKruif	Ingebrigtsen	Michel	Rosen	Wolf
Dibble	Jungbauer	Miller	Saxhaug	
Fischbach	Kelash	Nelson	Senjem	
Gazelka	Koch	Newman	Sheran	

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Newman moved that S.F. No. 301 be taken from the table. The motion prevailed.

**S.F. No. 301:** A bill for an act relating to public safety; expanding the fourth-degree assault crime and the assaulting a police horse crime to provide more protection to reserve officers; amending Minnesota Statutes 2010, sections 609.2231, by adding a subdivision; 609.597; 626.84, subdivision 1.

**CONCURRENCE AND REPASSAGE**

Senator Newman moved that the Senate concur in the amendments by the House to S.F. No. 301 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 301 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Gerlach	Kruse	Nienow	Sieben
Benson	Gimse	Kubly	Olson	Skoe
Bonoff	Goodwin	Langseth	Ortman	Sparks
Brown	Hall	Lillie	Pappas	Stumpf
Carlson	Hann	Limmer	Parry	Thompson
Chamberlain	Harrington	Lourey	Pederson	Tomassoni
Cohen	Higgins	Magnus	Pogemiller	Torres Ray
Dahms	Hoffman	McGuire	Reinert	Vanderveer
Daley	Howe	Metzen	Robling	Wiger
DeKruif	Ingebrigtsen	Michel	Rosen	Wolf
Dibble	Jungbauer	Miller	Saxhaug	
Fischbach	Kelash	Nelson	Senjem	
Gazelka	Koch	Newman	Sheran	

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

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Newman moved that S.F. No. 1285 be taken from the table. The motion prevailed.

**S.F. No. 1285:** A bill for an act relating to human services; making changes to chemical and mental health services; making rate reforms; amending Minnesota Statutes 2010, sections 245.462, subdivision 8; 245.467, subdivision 2; 245A.03, subdivision 7; 253B.02, subdivision 9; 254B.03, subdivisions 5, 9; 254B.05; 254B.12; 254B.13, subdivision 3; 256B.0622, subdivision 8; 256B.0623, subdivisions 3, 8; 256B.0624, subdivisions 2, 4, 6; 256B.0625, subdivisions 23, 38; 256B.0926, subdivision 2; 256B.0947; repealing Minnesota Statutes 2010, sections 254B.01, subdivision 7; 256B.0622, subdivision 8a.

**CONCURRENCE AND REPASSAGE**

Senator Newman moved that the Senate concur in the amendments by the House to S.F. No. 1285 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1285 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Gerlach	Kruse	Nienow	Sieben
Benson	Gimse	Kubly	Olson	Skoe
Bonoff	Goodwin	Langseth	Ortman	Sparks
Brown	Hall	Lillie	Pappas	Stumpf
Carlson	Hann	Limmer	Parry	Thompson
Chamberlain	Harrington	Lourey	Pederson	Tomassoni
Cohen	Higgins	Magnus	Pogemiller	Torres Ray
Dahms	Hoffman	McGuire	Reinert	Vandever
Daley	Howe	Metzen	Robling	Wiger
DeKruif	Ingebrigtsen	Michel	Rosen	Wolf
Dibble	Jungbauer	Miller	Saxhaug	
Fischbach	Kelash	Nelson	Senjem	
Gazelka	Koch	Newman	Sheran	

So the bill, as amended, was repassed 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

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1144:

**H.F. No. 1144:** A bill for an act relating to state government; providing for limited reinstatement of coverage in state employee group insurance program.

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

Cornish, Smith and Anzelc have been appointed as such committee on the part of the House.

House File No. 1144 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 21, 2011

Senator Carlson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1144, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to

House File No. 954:

**H.F. No. 954:** A bill for an act relating to counties; providing a process for making certain county offices appointive in Kittson County.

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

Fabian, Kiel and Hornstein have been appointed as such committee on the part of the House.

House File No. 954 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 21, 2011

Senator Stumpf moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 954, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1406:

**H.F. No. 1406:** A bill for an act relating to human services; amending continuing care policy provisions; making changes to the telephone equipment program; making changes to disability services provisions; reforming comprehensive assessments and case management services; making changes to nursing facility provisions; making technical and conforming changes; providing for rulemaking authority; requiring reports; amending Minnesota Statutes 2010, sections 144A.071, subdivisions 3, 5a; 144D.08; 237.50; 237.51; 237.52; 237.53; 237.54; 237.55; 237.56; 245A.03, subdivision 7; 245A.11, subdivision 8; 252.32, subdivision 1a; 252A.21, subdivision 2; 256.476, subdivision 11; 256B.0625, subdivision 19c; 256B.0659, subdivisions 1, 2, 3, 3a, 4, 9, 11, 13, 14, 19, 21, 30; 256B.0911, subdivisions 1, 1a, 2b, 2c, 3, 3a, 3b, 3c, 4a, 4c, 6; 256B.0913, subdivisions 7, 8; 256B.0915, subdivisions 1a, 1b, 3c, 6, 10; 256B.0916, subdivision 7; 256B.092, subdivisions 1, 1a, 1b, 1e, 1g, 2, 3, 5, 7, 8, 8a, 9, 11; 256B.096, subdivision 5; 256B.19, subdivision 1e; 256B.431, subdivision 2t; 256B.438, subdivisions 1, 3, 4, by adding a subdivision; 256B.441, subdivision 55a; 256B.49, subdivisions 13, 14, 15, 21; 256B.4912; 256G.02, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 252; repealing Minnesota Statutes 2010, section 144A.073, subdivisions 4, 5.

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

Hamilton, Abeler and Loeffler have been appointed as such committee on the part of the House.

House File No. 1406 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 21, 2011

Senator Nienow moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1406, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 387, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 387, is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 21, 2011

#### **CONFERENCE COMMITTEE REPORT ON H. F. NO. 387**

A bill for an act relating to drivers' licenses; allowing counties to participate in driver's license reinstatement diversion pilot program; extending diversion pilot program; amending Laws 2009, chapter 59, article 3, section 4, as amended.

May 21, 2011

The Honorable Kurt Zellers  
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach  
President of the Senate

We, the undersigned conferees for H. F. No. 387 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment.

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

House Conferees: Tim Kelly, Michael Beard, Mark Murdock

Senate Conferees: Scott J. Newman, Ted H. Lillie, John M. Harrington

Senator Newman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 387 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 387 was read the third time, as amended by the Conference Committee, and placed on

its repassage.

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

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

Those who voted in the affirmative were:

Bakk	Gerlach	Kruse	Nienow	Sieben
Benson	Gimse	Kubly	Olson	Skoe
Bonoff	Goodwin	Langseth	Ortman	Sparks
Brown	Hall	Lillie	Pappas	Stumpf
Carlson	Hann	Limmer	Parry	Thompson
Chamberlain	Harrington	Lourey	Pederson	Tomassoni
Cohen	Higgins	Magnus	Pogemiller	Torres Ray
Dahms	Hoffman	McGuire	Reinert	Vandever
Daley	Howe	Metzen	Robling	Wiger
DeKruif	Ingebrigtsen	Michel	Rosen	Wolf
Dibble	Jungbauer	Miller	Saxhaug	
Fischbach	Kelash	Nelson	Senjem	
Gazelka	Koch	Newman	Sheran	

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

### RECESS

Senator Koch 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 Koch from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 1105: Senators Jungbauer, Kruse and Reinert.

S.F. No. 1280: Senators Thompson, Kruse and Tomassoni.

H.F. No. 1144: Senators Carlson, Lillie and Saxhaug.

H.F. No. 954: Senators Stumpf, Robling and Magnus.

S.F. No. 1045: Senators Chamberlain, Gerlach and Brown.

H.F. No. 1406: Senators Nienow, Newman and Benson.

Senator Koch moved that the foregoing appointments be approved. The motion prevailed.

### RECESS

Senator Koch 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.



**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 Reports of Committees.

**REPORTS OF COMMITTEES**

Senator Koch moved that the Committee Report at the Desk be now adopted. The motion prevailed.

**Senator Koch from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,**

**S.F. No. 1369:** A bill for an act relating to retirement; major general employee statewide retirement plans; revising statutory salary scale actuarial assumptions; revising payroll growth actuarial assumptions; amending Minnesota Statutes 2010, section 356.215, subdivision 8.

Reports the same back with the recommendation that Joint Rule 2.03 be suspended for all further proceedings on S.F. No. 1369 and that the report from the Committee on State Government Innovation and Veterans, shown in the Journal for May 21, 2011, be adopted; that committee recommendation being:

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

**RECESS**

Senator Koch 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.

**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 Parry moved that the Committee Report at the Desk be now adopted. The motion prevailed.

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

**S.F. No. 1369:** A bill for an act relating to retirement; including pre-May 1, 2011, hires of the Red Wing Port Authority in the general employees retirement plan of the Public Employees Retirement Association; providing an optional procedure for the correction of erroneous member

deductions and employer contributions for the city of Duluth and the Duluth Airport Authority; revising postretirement adjustments, reducing the refund interest rate, eliminating interest on reemployed annuitant earnings limitation deferral amounts, and lowering the deferred annuity augmentation rate for the St. Paul Teachers Retirement Fund Association; increasing various vesting requirements for the Duluth Teachers Retirement Fund Association; revising the default retirement plan coverage determination for Minnesota State Colleges and Universities System employees; revising statutory salary scale and payroll growth actuarial assumptions; extending a financial report reporting deadline date for the 2010 fire state aid allocation; authorizing the use of special actuarial work in determining the 2009 and 2010 special fund financial requirements and minimum municipal obligations for the White Bear Lake Fire Department Relief Association; authorizing a purchase of allowable service credit or salary credit for public employees and teachers; providing for a voluntary consolidation of the Minneapolis Firefighters Relief Association and a voluntary consolidation of the Minneapolis Police Relief Association with Public Employees Retirement Association Police and Fire; making conforming changes; amending Minnesota Statutes 2010, sections 6.67; 13D.01, subdivision 1; 43A.316, subdivision 8; 69.77, subdivisions 1a, 4; 353.01, subdivisions 2a, 6, 16, by adding subdivisions; 353.03, by adding a subdivision; 353.65, subdivisions 1, 2, 3; 353.651, subdivision 1; 353.656, subdivisions 1, 1a, 3, 3a; 353.657, subdivision 1; 354A.011, by adding a subdivision; 354A.094, subdivision 3; 354A.29, by adding subdivisions; 354A.31, subdivisions 1, 5, 6; 354A.35, subdivision 2; 354A.36, subdivision 1; 354A.37; 354B.21, subdivisions 1, 2, 3, 3a, 5, 6, by adding subdivisions; 356.215, subdivision 8; 356.216; 356.401, subdivision 3; 356.465, subdivision 3; 356.47, subdivision 3; 423A.01, subdivision 3; 423A.02, subdivisions 1, 1b; 609B.455; 609B.460; proposing coding for new law in Minnesota Statutes, chapter 353; repealing Minnesota Statutes 2010, sections 354A.29, subdivision 3; 354B.21, subdivision 3c; 354B.32; 423A.021; 423B.01; 423B.03; 423B.04; 423B.05; 423B.06; 423B.07; 423B.08; 423B.09; 423B.10; 423B.11; 423B.12; 423B.13; 423B.14; 423B.15; 423B.151; 423B.16; 423B.17; 423B.18; 423B.19; 423B.20; 423B.21; 423B.23; 423C.01; 423C.02; 423C.03; 423C.04; 423C.05; 423C.06; 423C.07; 423C.08; 423C.09; 423C.10; 423C.11; 423C.12; 423C.13; 423C.14; 423C.15; 423C.16.

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

## **SECOND READING OF SENATE BILLS**

S.F. No. 1369 was read the second time.

## **MEMBERS EXCUSED**

Senator Scheid was excused from the Session of today. Senator Senjem was excused from the Session of today from 11:00 to 11:45 a.m. and from 12:15 to 1:10 p.m. Senators Gimse and Michel were excused from the Session of today from 11:00 a.m. to 12:00 noon. Senator Ingebrigtsen was excused from the Session of today from 12:05 to 12:40 p.m. Senator Sheran was excused from the Session of today from 1:30 to 1:50 p.m. Senator Higgins was excused from the Session of today from 1:35 to 1:50 p.m. Senator Rest was excused from the Session of today at 6:45 p.m. Senator Sparks was excused from the Session of today from 6:45 to 7:00 p.m. Senators Dibble, Marty, Reinert and Torres Ray were excused from the Session of today from 6:45 to 7:05 p.m. Senator Berglin was excused from the Session of today from 7:45 to 8:45 p.m. Senator Latz was excused from the

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Session of today at 7:50 p.m. Senator Marty was excused from the Session of today from 8:00 to 8:45 p.m.

**ADJOURNMENT**

Senator Parry moved that the Senate do now adjourn until 4:00 p.m., Sunday, May 22, 2011. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate

