
*INTRODUCTION***Legislative Mandates and Curiosities - 2004**

Lawmakers had a difficult time with the 2004 Session. It began with a \$160 million deficit, and neither body was able to come up with an agreement to solve the deficit before they adjourned sine die on May 17, 2004. Governor Tim Pawlenty took executive action to eliminate the deficit on his own by ordering three percent reductions in executive agency budgets, which did not include the Minnesota State Colleges and Universities. He also withheld the transfer of General Fund dollars to the Health Care Access Fund, increased tax compliance efforts at the Department of Revenue, and saved \$18 million by delaying or freezing the sale of bonds for previously authorized capital projects.

As in every even-numbered year, 2004 was a bonding cycle year. Initially, the Governor and the Legislature welcomed the economic stimulus that could be provided by new construction and other capital projects. However, the Legislature was unable to come up with a bonding bill before May 17, and the Minnesota State Colleges and Universities did not receive any of their \$274.9 million bonding request.

This publication is designed to highlight and explain legislation that affects the Minnesota State Colleges and Universities System. Bills from all relevant legislative committees are included in the document. We provide a summary of the legislation in “plain English,” as well as the actual legislative language. Readers are, as always, cautioned against relying on summaries alone. When a detailed understanding of a new law is required, you are advised to revert directly to the actual law.

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There are many people we would like to thank for helping with the Minnesota State College and University agenda during the 2004 Legislative session. In particular, the students from the campuses were excellent with their support and lobbying efforts at the State Capitol. As usual, our faculty and staff were there when we needed help. We also owe a debt of gratitude to the legislative staff in the House and Senate who helped us with scheduling and information necessary to keep the agenda moving.

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**OMNIBUS K-12 EDUCATION POLICY BILL
H.F. 1793 (Chapter 294)**

SUMMARY: The 2004 Omnibus K-12 Education Policy Bill generally affects changes concerning the public elementary and secondary schools. However, from time to time, there are provisions with an impact on post-secondary institutions. For 2004 these are in the Board of Teaching, and No Child Left Behind – Highly Qualified Teacher areas.

Section	<i>Omnibus K-12 Education Policy Bill</i>	Language Page
ARTICLE 2		
Academic Excellence		
9	License and Rules. This section requires the Board of Teaching to adopt rules to exempt from reading preparation requirements applicable to teachers renewing their licenses those teachers whose assignments do not include direct classroom instruction. This section is effective immediately.	9
10	Highly Qualified Teacher Defined. For purposes of the federal No Child Left Behind Act, this section defines a “highly qualified teacher” as a teacher who holds a valid license to perform the particular service for which the teacher is employed or who meets the high objective uniform state standard of evaluation (HOUSSE). This section allows teachers teaching in a core academic subject, who are not fully licensed in that core subject, to complete the high objective uniform state standard (HOUSSE) process. School districts are required to assign a school administrator as a HOUSSE reviewer, and allows teachers to receive up to 50 points in particular areas of documentation to satisfy the definition of highly qualified. This section states that achievement of the HOUSSE criteria is not equivalent to a license. This section is effective immediately.	10
11	Mandatory Reporting. This section requires school boards to report to the Board of Teaching or the Board of School Administrators when a teacher or administrator is suspended without an investigation on one of three statutory grounds for teacher discharge or demotion or for maltreatment of a minor. This section is effective immediately.	11

1
2 **OMNIBUS K-12 EDUCATION POLICY BILL**
3 **H.F. 1793 (Chapter 294)**
4

5 ARTICLE 2
6 ACADEMIC EXCELLENCE
7

8 Sec. 9. Minnesota Statutes 2003 Supplement, section 122A.09,
9 subdivision 4, is amended to read:

10 Subd. 4. [LICENSE AND RULES.]

11 (a) The board must adopt rules to license public school teachers
12 and interns subject to chapter 14.

13 (b) The board must adopt rules requiring a person to successfully
14 complete a skills examination in reading, writing, and mathematics as a
15 requirement for initial teacher licensure. Such rules must require college
16 and universities offering a board-approved teacher preparation program to
17 provide remedial assistance to persons who did not achieve a qualifying
18 score on the skills examination, including those for whom English is a
19 second language.

20 (c) The board must adopt rules to approve teacher preparation
21 programs. The board, upon the request of a postsecondary student
22 preparing for teacher licensure or a licensed graduate of a teacher
23 preparation program, shall assist in resolving a dispute between the
24 person and a postsecondary institution providing a teacher preparation
25 program when the dispute involves an institution's recommendation for
26 licensure affecting the person or the person's credentials. At the
27 board's discretion, assistance may include the application of chapter 14.

28 (d) The board must provide the leadership and shall adopt rules for
29 the redesign of teacher education programs to implement a research based,
30 results-oriented curriculum that focuses on the skills teachers need in
31 order to be effective. The board shall implement new systems of teacher
32 preparation program evaluation to assure program effectiveness based on
33 proficiency of graduates in demonstrating attainment of program outcomes.

34 (e) The board must adopt rules requiring successful completion of
35 an examination of general pedagogical knowledge and examinations of
36 licensure-specific teaching skills. The rules shall be effective on the
37 dates determined by the board but not later than September 1, 2001.

38 (f) The board must adopt rules requiring teacher educators to work
39 directly with elementary or secondary school teachers in elementary or
40 secondary schools to obtain periodic exposure to the elementary or
41 secondary teaching environment.

42 (g) The board must grant licenses to interns and to candidates for
43 initial licenses.

44 (h) The board must design and implement an assessment system which
45 requires a candidate for an initial license and first continuing license
46 to demonstrate the abilities necessary to perform selected, representative
47 teaching tasks at appropriate levels.

48 (i) The board must receive recommendations from local committees as
49 established by the board for the renewal of teaching licenses.

50 (j) The board must grant life licenses to those who qualify
51 according to requirements established by the board, and suspend or revoke
52 licenses pursuant to sections 122A.20 and 214.10. The board must not
53 establish any expiration date for application for life licenses.

54 (k) The board must adopt rules that require all licensed teachers
55 who are renewing their continuing license to include in their renewal
56 requirements further preparation in the areas of using positive behavior
57 interventions and in accommodating, modifying, and adapting curricula,
58 materials, and strategies to appropriately meet the needs of individual
59 students and ensure adequate progress toward the state's graduation rule.

1 (1) In adopting rules to license public school teachers who provide
2 health-related services for disabled children, the board shall adopt rules
3 consistent with license or registration requirements of the commissioner
4 of health and the health-related boards who license personnel who perform
5 similar services outside of the school.

6 (m) The board must adopt rules that require all licensed teachers
7 who are renewing their continuing license to include in their renewal
8 requirements further reading preparation, consistent with section 122A.06,
9 subdivision 4. The rules do not take effect until they are approved by
10 law. Teachers who do not provide direct instruction including, at least,
11 counselors, school psychologists, school nurses, school social workers,
12 audiovisual directors and coordinators, and recreation personnel are
13 exempt from this section.

14 (n) The board must adopt rules that require all licensed teachers
15 who are renewing their continuing license to include in their renewal
16 requirements further preparation in understanding the key warning signs of
17 early-onset mental illness in children and adolescents.

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

20
21 Sec. 10. Minnesota Statutes 2002, section 122A.16, is amended to
22 read: 122A.16 [HIGHLY QUALIFIED TEACHER DEFINED.]

23 (a) A qualified teacher is one holding a valid license, under this
24 chapter, to perform the particular service for which the teacher is
25 employed in a public school.

26 (b) For the purposes of the federal No Child Left Behind Act, a
27 highly qualified teacher is one who holds a valid license under this
28 chapter to perform the particular service for which the teacher is
29 employed in a public school or who meets the requirements of a highly
30 objective uniform state standard of evaluation (HOUSSE). All Minnesota
31 teachers teaching in a core academic subject area, as defined by the
32 federal No Child Left Behind Act, in which they are not fully licensed may
33 complete the following HOUSSE process in the core subject area for which
34 the teacher is requesting highly qualified status by completing an
35 application, in the form and manner described by the commissioner, that
36 includes:

37 (1) documentation of student achievement as evidenced by norm-
38 referenced test results that are objective and psychometrically valid and
39 reliable;

40 (2) evidence of local, state, or national activities, recognition,
41 or awards for professional contribution to achievement;

42 (3) description of teaching experience in the teachers' core
43 subject area in a public school under a waiver, variance, limited license
44 or other exception; nonpublic school; and postsecondary institution;

45 (4) test results from the Praxis II content test;

46 (5) evidence of advanced certification from the National Board for
47 Professional Teaching Standards;

48 (6) evidence of the successful completion of course work or
49 pedagogy courses; and

50 (7) evidence of the successful completion of high quality
51 professional development activities. Districts must assign a school
52 administrator to serve as a HOUSSE reviewer to meet with teachers under
53 this paragraph and, where appropriate, certify the teachers' applications.
54 Teachers satisfy the definition of highly qualified when the teachers
55 receive at least 100 of the total number of points used to
56 measure the teachers' content expertise under clauses (1) to (7).
57 Teachers may acquire up to 50 points only in any one clause (1) to (7).
58 Teachers may use the HOUSSE process to satisfy the definition of highly
59 qualified for more than one subject area.

1 (c) Achievement of the HOUSSSE criteria is not equivalent to a
2 license. A teacher must obtain permission from the Board of Teaching in
3 order to teach in a public school.

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

6
7 Sec. 11. Minnesota Statutes 2002, section 122A.20, subdivision 2,
8 is amended to read:

9 Subd. 2. **[MANDATORY REPORTING.]** A school board must report to the
10 Board of Teaching, the Board of School Administrators, or the Board of
11 Trustees of the Minnesota State Colleges and Universities, whichever has
12 jurisdiction over the teacher's or administrator's license, when its
13 teacher or administrator is discharged or resigns from employment after a
14 charge is filed with the school board under section 122A.41, subdivisions
15 6, clauses (1), (2), and (3), and 7, or after charges are filed that are
16 ground for discharge under section 122A.40, subdivision 13, paragraph (a),
17 clauses (1) to (5), or when a teacher or administrator is suspended or
18 resigns while an investigation is pending under section 122A.40,
19 subdivision 13, paragraph (a) clauses (1) to (5); 122A.41, subdivisions 6,
20 clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or
21 administrator is suspended without an investigation under section 122A.41,
22 subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; or
23 626.556. The report must be made to the appropriate licensing board
24 within ten days after the discharge, suspension, or resignation has
25 occurred. The licensing board to which the report is made must
26 investigate the report for violation of subdivision 1 and the reporting
27 board must cooperate in the investigation. Notwithstanding any provision
28 in chapter 13 or any law to the contrary, upon written request from the
29 licensing board having jurisdiction over the license, a board or school
30 superintendent shall provide the licensing board with information about
31 the teacher or administrator from the district's files, any termination or
32 disciplinary proceeding, any settlement or compromise, or any
33 investigative file. Upon written request from the appropriate licensing
34 board, a board or school superintendent may, at the discretion of the
35 board or school superintendent, solicit the written consent of a student
36 and the student's parent to provide the licensing board with information
37 that may aid the licensing board in its investigation and license
38 proceedings. The licensing board's request need not identify a student or
39 parent by name. The consent of the student and the student's parent must
40 meet the requirements of chapter 13 and Code of Federal Regulations, title
41 34, section 99.30. The licensing board may provide a consent form to the
42 district. Any data transmitted to any board under this section is private
43 data under section 13.02, subdivision 12, notwithstanding any other
44 classification of the data when it was in the possession of any other
45 agency. The licensing board to which a report is made must transmit to the
46 Attorney General's Office any record or data it receives under this
47 subdivision for the sole purpose of having the Attorney General's Office
48 assist that board in its investigation. When the Attorney General's
49 Office has informed an employee of the appropriate licensing board in
50 writing that grounds exist to suspend or revoke a teacher's license to
51 teach, that licensing board must consider suspending or revoking or
52 decline to suspend or revoke the teacher's or administrator's license
53 within 45 days of receiving a stipulation executed by the teacher or
54 administrator under investigation or a recommendation from an
55 administrative law judge that disciplinary action be taken.

OMNIBUS PENSION BILL
S.F. 676 (Chapter 267)

SUMMARY: This bill contains various provisions of an administrative nature, as well as provisions with some policy substance. Minnesota State Colleges and Universities administers all or part of several pension programs, and employees currently participate in no less than seven plans including deferred compensation and tax sheltered annuity programs. Only those provisions of the 18 articles in the bill that affect Minnesota State Colleges and Universities are listed below.

Section	<i>Omnibus Pension Bill</i>	Language Page
ARTICLE 1		
Membership Issues		
4	Seasonal Position. This section changes the definition of an employment year for PERA by deleting the word “business.”	17
5	Teacher. This section makes technical language changes to the Teachers Retirement Association for customized trainers.	17
6	Covered Employment. This section makes a technical name change in IRAP for Minnesota State Colleges and Universities.	18
7	Eligible Unclassified Administrative Position. This section makes technical language changes, as well as broadens the definition of an “eligible unclassified administrative position” for IRAP purposes.	18
8	Eligibility. This section adds other unclassified excluded employees in eligibility for the supplemental retirement plan.	18
10	Effective Date. Sections 4 to 6 are effective on July 1, 2004. Section 7 is effective on July 1, 2004 and applies retroactively to the date of hire of the applicable person in the affected position. Section 8 is effective retroactively to July 1, 2001.	19
ARTICLE 2		
Covered Salary Definition		
1	Salary. Amounts received as grievance awards or legal settlements are excluded from salary covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS – General), unless reviewed by the applicable executive director and determined to be consistent with the statutory definition.	19
3	Same provision as Section 1 but for PERA.	19
4	Same provision as Section 1 but for TRA.	20
5	Same provision as Section 1 but for TRA-First Class Cities plans.	21
6	State Salary Limitations. Exceptions from the maximum salary of 95 percent of the Governor’s salary for retirement coverage purposes are extended to judges, county attorneys, employees of the legislative branch, executive branch and judicial branch, employees of the Minnesota State Colleges and Universities system, and others.	22
9	Effective Date. Sections 1 and 3 are effective on July 1, 2004. Section 4 and 5 are effective on the day following final enactment.	22

Section 6 applies retroactively to April 28, 1994, and retirement annuities that were based on covered salary amounts that were in excess of the limit in effect after April 28, 1994, but conform with section 6, are ratified.

ARTICLE 3

Allowable Service Credits

- 4 **Service Credit.** This section defines service credit for all service rendered on or after July 1, 2003 in the Teachers Retirement Association (TRA) for the Minnesota State Colleges and Universities System. Years and days of service will be credited based on the relationship to full-time employment contained in the applicable collective bargaining agreement or personnel plans. 22
- 9 **Effective Date.** Effective on July 1, 2004. 23

ARTICLE 5

Retirement Plan Contributions and Transfers

- 2 **Payment of Shortages.** The employer payment of omitted Teachers Retirement Association (TRA) member contributions provision is amended to exclude minimal part-time service by Minnesota State Colleges and Universities System faculty members who elect TRA coverage upon beginning to teach at least 25 percent of a full-time schedule for any period that exceeds the most recent 36 months. MnSCU may recover any of these payments made on behalf of the faculty member from that employee's salary or by other means. 23
- 3 **Member Contribution Rate.** This section increases employee contributions to IRAP for Administrators only. There is no increase to the employer contribution. 24
- 4 **Technical changes to IRAP.** 25
- 5 **Effective Date.** Sections 2, 3 and 4 are effective on July 1, 2004. Section 2 applies to shortages in member deductions that occurred before the effective date of the section. 25

ARTICLE 6

Reporting and Information Provision

- 1 **Information Distribution.** This section makes a technical name change in TRA law for Minnesota State Colleges and Universities. 25
- 3 **MnSCU Service Credit Reporting.** This section creates a new means and deadline for Minnesota State Colleges and Universities to report service credit to the Teachers Retirement Association (TRA) for all service rendered after July 1, 2004. 25
- 6 **Effective Date.** These sections are effective on July 1, 2004. 26

ARTICLE 11

Health Care Savings Plan Modifications

- 1 **MSRS Health Care Savings Plan Expansion.** The Health Care Savings Plan administered by the Minnesota State Retirement System 26

(MSRS) has a technical name change and is expanded to permit account balances to be used to reimburse active members for health care costs within the limits set by the plan.

- 2** **Effective Date.** Section 1 is effective on the day following final enactment. **27**

1
2 **OMNIBUS PENSION BILL**
3 **S.F. 676 (Chapter 267)**

4
5 ARTICLE 1
6 MEMBERSHIP ISSUES

7
8 Sec. 4. Minnesota Statutes 2002, section 353.01, subdivision 12b,
9 is amended to read:

10 Subd. 12b. [SEASONAL POSITION.] "Seasonal position" means a position
11 where the nature of the work or its duration are related to a specific
12 season or seasons of the year, regardless of whether or not the employing
13 agency anticipates that the same employee will return to the position each
14 season in which it becomes available. The entire period of employment in
15 a ~~business~~ year must be used to determine whether or not a position may be
16 excluded as seasonal when there is less than a 30-day break between one
17 seasonal position and a subsequent seasonal position for employment with
18 the same governmental employer. Seasonal positions include, but are not
19 limited to, coaching athletic activities or employment to plow snow or to
20 maintain roads or parks, or to operate skating rinks, ski lodges, golf
21 courses, or swimming pools.

22
23 Sec. 5. Minnesota Statutes 2002, section 354.05, subdivision 2, is
24 amended to read:

25 Subd. 2. [TEACHER.]

26 (a) "Teacher" means:

27 (1) a person who renders service as a teacher, supervisor,
28 principal, superintendent, librarian, nurse, counselor, social worker,
29 therapist, or psychologist in a public school of the state located outside
30 of the corporate limits of a city of the first class, or in any charter
31 school, irrespective of the location of the school, or in any charitable,
32 penal, or correctional institutions of a governmental subdivision, or who
33 is engaged in educational administration in connection with the state
34 public school system, but excluding the University of Minnesota, whether
35 the position be a public office or an employment, and not including the
36 members or officers of any general governing or managing board or body;

37 (2) an employee of the Teachers Retirement Association;

38 (3) a person who renders teaching service on a part-time basis and
39 who also renders other services for a single employing unit. A person
40 whose teaching service comprises at least 50 percent of the combined
41 employment salary is a member of the association for all services with the
42 single employing unit. If the person's teaching service comprises less
43 than 50 percent of the combined employment salary, the executive director
44 must determine whether all or none of the combined service is covered by
45 the association; or

46 (4) a person who is not covered by the plans established under
47 chapter 352D, 354A, or 354B and who is employed by the Board of Trustees
48 of the Minnesota State Colleges and Universities system in an unclassified
49 position as:

50 (i) a president, vice-president, or dean;

51 (ii) a manager or a professional in an academic or an academic
52 support program other than specified in item (i);

53 (iii) an administrative or a service support faculty position; or

54 (iv) a teacher or a research assistant.

55 (b) "Teacher" does not mean:

56 (1) a person who works for a school or institution as an
57 independent contractor as defined by the Internal Revenue Service;

58 (2) ~~a person employed in subsidized on-the-job training, work~~
59 ~~experience or public service employment as an enrollee under the federal~~

1 ~~Comprehensive Employment and Training Act from and after March 30, 1978,~~
 2 ~~unless the person has, as of the later of March 30, 1978, or the date of~~
 3 ~~employment, sufficient service credit in the retirement association to~~
 4 ~~meet the minimum vesting requirements for a deferred retirement annuity,~~
 5 ~~or the employer agrees in writing on forms prescribed by the executive~~
 6 ~~director to make the required employer contributions, including any~~
 7 ~~employer additional contributions, on account of that person from revenue~~
 8 ~~sources other than funds provided under the federal Comprehensive Training~~
 9 ~~and Employment Act, or the person agrees in writing on forms prescribed by~~
 10 ~~the executive director to make the required employer contribution in~~
 11 ~~addition to the required employee contribution;~~

12 ~~(3) a person holding a part-time adult supplementary technical~~
 13 ~~college license who renders part-time teaching service or who is a~~
 14 ~~customized trainer as defined by the Minnesota State Colleges and~~
 15 ~~Universities system in a technical college if~~

16 (i) the service is incidental to the regular nonteaching occupation
 17 of the person; and

18 (ii) the ~~applicable technical college~~ employer stipulates annually
 19 in advance that the part-time teaching service or customized training
 20 service will not exceed 300 hours in a fiscal year and retains the
 21 stipulation in its records; and

22 (iii) the part-time teaching service or customized training service
 23 actually does not exceed 300 hours in a fiscal year; or

24 ~~(4)~~ (3) a person exempt from licensure under section 122A.30.

25
 26 Sec. 6. Minnesota Statutes 2002, section 354B.20, subdivision 4,
 27 is amended to read:

28 Subd. 4. [COVERED EMPLOYMENT.]

29 (a) "Covered employment" means employment by a person eligible for
 30 coverage by this retirement program under section 354B.21 in a faculty
 31 position or in an eligible unclassified administrative position.

32 (b) "Covered employment" does not mean employment specified in
 33 paragraph (a) by a faculty member employed in ~~a state university or a~~
 34 ~~community college~~ the Minnesota State Colleges and Universities system if
 35 the person's initial appointment is specified as constituting less than 25
 36 percent of a full academic year, exclusive of summer session, for the
 37 applicable institution.

38
 39 Sec. 7. Minnesota Statutes 2002, section 354B.20, subdivision 6,
 40 is amended to read:

41 Subd. 6. [ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.]

42 "Eligible unclassified administrative position" means the following:

43 (1) the chancellor of the board;

44 (2) a president of a state college or university; ~~or~~

45 (3) an ~~excluded~~ administrator employed in a state university or
 46 college, by the board, or by the Higher Education Services Office; or

47 (4) other managers and professionals in academic and academic
 48 support programs in the unclassified service employed in a state
 49 university or college, by the board, or by the Higher Education Services
 50 Office.

51
 52 Sec. 8. Minnesota Statutes 2002, section 354C.11, subdivision 2,
 53 is amended to read:

54 Subd. 2. [ELIGIBILITY.]

55 (a) An individual must participate in the supplemental retirement
 56 plan if the individual is employed by the Board of Trustees in the
 57 unclassified service of the state and has completed at least two years
 58 with a full-time contract of applicable unclassified employment with the
 59 board or an applicable predecessor board in any of the positions specified
 60 in paragraph (b).

1 (b) Eligible positions or employment classifications are:
 2 (1) an unclassified administrative position as defined in section
 3 354B.20, subdivision 6;
 4 (2) an employment classification included in one of the following
 5 collective bargaining units under section 179A.10, subdivision 2:
 6 (i) the state university instructional unit;
 7 (ii) the state college instructional unit; and
 8 (iii) the state university administrative unit; or
 9 (3) an unclassified employee of the board:
 10 (i) included in the general professional unit or the supervisory
 11 employees unit under section 179A.10, subdivision 2; or
 12 (ii) an employee who is excluded from one of those units due to the
 13 employee's confidential status under section 179A.10, subdivision 1,
 14 clause (8).

15
 16 Sec. 10. [EFFECTIVE DATE.]

17 (a) Sections 2 to 6 and 9 are effective on July 1, 2004.

18 (b) Section 7 is effective on July 1, 2004, and applies
 19 retroactively to the date of hire of the applicable person in the affected
 20 position.

21 (c) Section 8 is effective retroactively to July 1, 2001.

22
 23 ARTICLE 2

24 COVERED SALARY DEFINITION

25
 26 Section 1. Minnesota Statutes 2002, section 352.01, subdivision
 27 13, is amended to read:

28 Subd. 13. [SALARY.]

29 (a) "Salary" means wages, or other periodic compensation, paid to
 30 an employee before deductions for deferred compensation, supplemental
 31 retirement plans, or other voluntary salary reduction programs.

32 (b) "Salary" does not include:

33 (1) lump sum sick leave payments;

34 (2) severance payments;

35 (3) lump sum annual leave payments and overtime payments made at
 36 the time of separation from state service;

37 (4) payments in lieu of any employer-paid group insurance coverage,
 38 including the difference between single and family rates that may be paid
 39 to an employee with single coverage, and;

40 (5) payments made as an employer-paid fringe benefit;

41 (6) workers' compensation payments;

42 (7) employer contributions to a deferred compensation or tax
 43 sheltered annuity program; and

44 (8) amounts contributed under a benevolent vacation and sick leave
 45 donation program are not salary.

46 (c) Amounts provided to an employee by the employer through a
 47 grievance proceeding or a legal settlement are salary only if the
 48 settlement is reviewed by the executive director and the amounts are
 49 determined by the executive director to be consistent with paragraph (a)
 50 and prior determinations.

51
 52 Section. 3. Minnesota Statutes 2002, section 353.01,
 53 subdivision 10, is amended to read:

54 Subd. 10. [SALARY.]

55 (a) "Salary" means:

56 (1) the periodic compensation of a public employee, before
 57 deductions for deferred compensation, supplemental retirement
 58 plans, or other voluntary salary reduction programs, and also
 59 means "wages" and includes net income from fees; and

60 (2) for a public employee who has prior service covered by

1 a local police or firefighters relief association that has
2 consolidated with the Public Employees Retirement Association or
3 to which section 353.665 applies and who has elected coverage
4 either under the public employees police and fire fund benefit
5 plan under section 353A.08 following the consolidation or under
6 section 353.665, subdivision 4, "~~salary~~" means the rate of
7 salary upon which member contributions to the special fund of
8 the relief association were made prior to the effective date of
9 the consolidation as specified by law and by bylaw provisions
10 governing the relief association on the date of the initiation
11 of the consolidation procedure and the actual periodic
12 compensation of the public employee after the effective date of
13 consolidation.

14 (b) Salary does not mean:

15 (1) the fees paid to district court reporters, unused
16 annual vacation or sick leave payments, in lump-sum or periodic
17 payments, severance payments, reimbursement of expenses,
18 lump-sum settlements not attached to a specific earnings period,
19 or workers' compensation payments;

20 (2) employer-paid amounts used by an employee toward the
21 cost of insurance coverage, employer-paid fringe benefits,
22 flexible spending accounts, cafeteria plans, health care expense
23 accounts, day care expenses, or any payments in lieu of any
24 employer-paid group insurance coverage, including the difference
25 between single and family rates that may be paid to a member
26 with single coverage and certain amounts determined by the
27 executive director to be ineligible;

28 (3) the amount equal to that which the employing
29 governmental subdivision would otherwise pay toward single or
30 family insurance coverage for a covered employee when, through a
31 contract or agreement with some but not all employees, the
32 employer:

33 (i) discontinues, or for new hires does not provide,
34 payment toward the cost of the employee's selected insurance
35 coverages under a group plan offered by the employer;

36 (ii) makes the employee solely responsible for all
37 contributions toward the cost of the employee's selected
38 insurance coverages under a group plan offered by the employer,
39 including any amount the employer makes toward other employees'
40 selected insurance coverages under a group plan offered by the
41 employer; and

42 (iii) provides increased salary rates for employees who do
43 not have any employer-paid group insurance coverages; ~~and~~

44 (4) except as provided in section 353.86 or 353.87,
45 compensation of any kind paid to volunteer ambulance service
46 personnel or volunteer firefighters, as defined in subdivision
47 35 or 36; and

48 (5) the amount of compensation that exceeds the limitation
49 provided in section 356.611.

50 (c) Amounts provided to an employee by the employer through
51 a grievance proceeding or a legal settlement are salary only if
52 the settlement is reviewed by the executive director and the
53 amounts are determined by the executive director to be
54 consistent with paragraph (a) and prior determinations.

55
56 Section. 4. Minnesota Statutes 2002, section 354.05, subdivision
57 35, is amended to read:

58 Subd. 35. [SALARY.]

59 (a) "Salary" means the periodic
60 compensation, upon which member contributions are required

1 before deductions for deferred compensation, supplemental
2 retirement plans, or other voluntary salary reduction programs.

3 (b) "Salary" does not mean:

4 (1) lump sum annual leave payments;

5 (2) lump sum wellness and sick leave payments;

6 (3) employer-paid amounts used by an employee toward the
7 cost of insurance coverage, employer-paid fringe benefits,
8 flexible spending accounts, cafeteria plans, health care expense
9 accounts, day care expenses, or any payments in lieu of any
10 employer-paid group insurance coverage, including the difference
11 between single and family rates that may be paid to a member
12 with single coverage and certain amounts determined by the
13 executive director to be ineligible;

14 (4) any form of payment made in lieu of any other
15 employer-paid fringe benefit or expense;

16 (5) any form of severance payments;

17 (6) workers' compensation payments;

18 (7) disability insurance payments, including self-insured
19 disability payments;

20 (8) payments to school principals and all other
21 administrators for services that are in addition to the normal
22 work year contract if these additional services are performed on
23 an extended duty day, Saturday, Sunday, holiday, annual leave,
24 sick leave day, or any other nonduty day;

25 (9) payments under section 356.24, subdivision 1, clause
26 (4); and

27 (10) payments made under section 122A.40, subdivision 12,
28 except for payments for sick leave that are accumulated under
29 the provisions of a uniform school district policy that applies
30 equally to all similarly situated persons in the district.

31 (c) Amounts provided to an employee by the employer through
32 a grievance proceeding or a legal settlement are salary only if
33 the settlement is reviewed by the executive director and the
34 amounts are determined by the executive director to be
35 consistent with paragraph (a) and prior determinations.

36
37 Sec. 5. Minnesota Statutes 2002, section 354A.011, subdivision 24,
38 is amended to read:

39 Subd. 24. [SALARY; COVERED SALARY.]

40 (a) "Salary" or "covered salary" means the entire compensation,
41 upon which member contributions are required and made, that is paid to a
42 teacher before deductions for deferred compensation, supplemental
43 retirement plans, or other voluntary salary reduction programs.

44 (b) "Salary" does not mean:

45 (1) lump sum annual leave payments;

46 (2) lump sum wellness and sick leave payments;

47 (3) employer-paid amounts used by an employee toward the cost of
48 insurance coverage, employer-paid fringe benefits, flexible spending
49 accounts, cafeteria plans, health care expense accounts, day care
50 expenses, or any payments in lieu of any employer-paid group insurance
51 coverage, including the difference between single and family rates that
52 may be paid to a member with single coverage, and certain amounts
53 determined by the executive secretary or director to be ineligible;

54 (4) any form of payment that is made in lieu of any other employer-
55 paid fringe benefit or expense;

56 (5) any form of severance payments;

57 (6) workers' compensation payments;

58 (7) disability insurance payments, including self-insured
59 disability payments;

1 (8) payments to school principals and all other administrators for
 2 services that are in addition to the normal work year contract if these
 3 additional services are performed on an extended duty day, Saturday,
 4 Sunday, holiday, annual leave day, sick leave day, or any other nonduty
 5 day;

6 (9) payments under section 356.24, subdivision 1, clause(4) (ii);
 7 and

8 (10) payments made under section 122A.40, subdivision 12, except
 9 for payments for sick leave that are accumulated under the provisions of a
 10 uniform school district policy that applies equally to all similarly
 11 situated persons in the district.

12 (c) Amounts provided to an employee by the employer through
 13 a grievance proceeding or a legal settlement are salary only if
 14 the settlement is reviewed by the executive director and the
 15 amounts are determined by the executive director to be
 16 consistent with paragraph (a) and prior determinations.

17
 18 Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 1,
 19 is amended to read:

20 Subdivision 1. [STATE SALARY LIMITATIONS.]

21 (a) Notwithstanding any provision of law, bylaws, articles of
 22 incorporation, retirement and disability allowance plan agreements, or
 23 retirement plan contracts to the contrary, the covered salary for pension
 24 purposes for a plan participant of a covered retirement fund enumerated in
 25 section 356.30, subdivision 3, may not exceed 95 percent of the salary
 26 established for the governor under section 15A.082 at the time the person
 27 received the salary.

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

29 (1) to the governor or to a judge;

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

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

36 (4) to an employee of Gillette Hospital who is covered by the
 37 general state employees retirement plan of the Minnesota State Retirement
 38 System;

39 (5) to an employee of the Minnesota Crop Improvement Council; or

40 (6) to an employee of the Minnesota Historical Society.

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

45
 46 Sec. 9. [EFFECTIVE DATE.]

47 (a) Sections 1, 2, 3, 7, and 8 are effective on July 1, 2004.

48 (b) Sections 4 and 5 are effective on the day following final
 49 enactment.

50 (c) Section 6 applies retroactively to April 28, 1994, and
 51 retirement annuities that were based on covered salary amounts that were
 52 in excess of the limit in effect after April 28, 1994, but conform with
 53 section 6, are ratified.

54
 55
 56 ARTICLE 3
 57 ALLOWABLE SERVICE CREDIT

58
 59 Sec. 4. Minnesota Statutes 2002, section 354.091, is amended to
 60 read: 354.091 [SERVICE CREDIT.]

1 (a) In computing service credit, no teacher shall receive credit
2 for more than one year of teaching service for any fiscal year.
3 Commencing July 1, 1961:

4 (1) if a teacher teaches less than five hours in a day, service
5 credit must be given for the fractional part of the day as the term of
6 service performed bears to five hours;

7 (2) if a teacher teaches five or more hours in a day, service
8 credit must be given for only one day;

9 (3) if a teacher teaches at least 170 full days in any fiscal year,
10 service credit must be given for a full year of teaching service; and

11 (4) if a teacher teaches for only a fractional part of the year,
12 service credit must be given for such fractional part of the year as the
13 period of service performed bears to 170 days.

14 (b) A teacher shall receive a full year of service credit based on
15 the number of days in the employer's full school year if it is less than
16 170 days. Teaching service performed before July 1, 1961, must be
17 computed under the law in effect at the time it was performed.

18 (c) A teacher ~~does~~ must not lose or gain retirement service credit
19 as a result of the employer converting to a flexible or alternate work
20 schedule. If the employer converts to a flexible or alternate work
21 schedule, the forms for reporting and the procedures for determining
22 service credit must be determined by the executive director with the
23 approval of the board of trustees.

24 (d) For all services rendered on or after July 1, 2003, service
25 credit for all members employed by the Minnesota State Colleges and
26 Universities system must be determined:

27 (1) for full-time employees, by the definition of full time
28 employment contained in the collective bargaining agreement for those
29 units listed in section 179A.10, subdivision 2, or contained in the
30 applicable personnel or salary plan for those positions designated in
31 section 179A.10, subdivision 1;

32 (2) for part-time employees, by the appropriate proration of full-
33 time equivalency based on the provisions contained in the collective
34 bargaining agreement for those units listed in section 179A.10,
35 subdivision 2, or contained in the applicable personnel or salary plan for
36 those positions designated in section 179A.10, subdivision 1, and the
37 applicable procedures of the Minnesota State Colleges and Universities
38 system; and

39 (3) in no case may a member receive more than one year of service
40 credit for any fiscal year.

41
42 Sec. 9. [EFFECTIVE DATE.] Sections 1 to 8 are effective on July 1,
43 2004.

44 ARTICLE 5

45 RETIREMENT PLAN CONTRIBUTIONS AND TRANSFERS

46
47
48 Sec. 2. Minnesota Statutes 2002, section 354.51, subdivision 5,
49 is amended to read:

50 Subd. 5. [PAYMENT OF SHORTAGES.] (a) Except as provided in
51 paragraph (b), in the event that full required member contributions are
52 not deducted from the salary of a teacher payment ~~shall~~ must be made as
53 follows:

54 ~~(a)~~ (1) Payment of shortages in member deductions on salary earned
55 after June 30, 1957, and ~~prior to~~ before July 1, 1981, may be made any
56 time ~~prior to~~ before retirement. Payment ~~shall~~ must include interest at
57 an annual rate of 8.5 percent compounded annually from the end of the
58 fiscal year in which the shortage occurred to the end of the month in
59 which payment is made and the interest ~~shall~~ must be credited to the fund.
60 If payment of a shortage in deductions is not made, the formula service

1 credit of the member ~~shall~~ must be prorated ~~pursuant to~~ under section
2 354.05, subdivision 25, clause (3).

3 ~~(b)~~ (2) Payment of shortages in member deductions on salary earned
4 after June 30, 1981, ~~shall be~~ are the sole obligation of the employing
5 unit and ~~shall be~~ are payable by the employing unit upon notification by
6 the executive director of the shortage with interest at an annual rate of
7 8.5 percent compounded annually from the end of the fiscal year in which
8 the shortage occurred to the end of the month in which payment is made and
9 the interest ~~shall~~ must be credited to the fund. Effective July 1, 1986,
10 the employing unit shall also pay the employer contributions as specified
11 in section 354.42, subdivisions 3 and 5 for ~~such~~ the shortages. If the
12 shortage payment is not paid by the employing unit within 60 days of
13 notification, the executive director shall certify the amount of the
14 shortage payment to the applicable county auditor, who shall spread a levy
15 in the amount of the shortage payment over the taxable property of the
16 taxing district of the employing unit if the employing unit is supported
17 by property taxes, or to the commissioner of finance, who shall deduct the
18 amount from any state aid or appropriation amount applicable to the
19 employing unit if the employing unit is not supported by property taxes.

20 ~~(e)~~ (3) Payment may not be made for shortages in member deductions
21 on salary earned ~~prior to~~ before July 1, 1957, for shortages in member
22 deductions on salary paid or payable under paragraph (b), or for shortages
23 in member deductions for persons employed by the Minnesota State Colleges
24 and Universities system in a faculty position or in an eligible
25 unclassified administrative position and whose employment was less than 25
26 percent of a full academic year, exclusive of the summer session, for the
27 applicable institution that exceeds the most recent 36 months.

28 (b) For a person who is employed by the Minnesota State Colleges
29 and Universities system in a faculty position or in an eligible
30 unclassified administrative position and whose employment was less than 25
31 percent of a full academic year, exclusive of the summer session, for the
32 applicable institution, upon the person's election under section 354B.21
33 of retirement coverage under this chapter, the shortage in member
34 deductions on the salary for employment by the Minnesota State Colleges
35 and Universities system institution of less than 25 percent of a full
36 academic year, exclusive of the summer session, for the applicable
37 institution for the most recent 36 months and the associated employer
38 contributions must be paid by the Minnesota State Colleges and
39 Universities system institution, plus annual compound interest at the rate
40 of 8.5 percent from the end of the fiscal year in which the shortage
41 occurred to the end of the month in which the teachers retirement
42 association coverage election is made. If the shortage payment is not
43 made by the institution within 60 days of notification, the executive
44 director shall certify the amount of the shortage payment to the
45 commissioner of finance, who shall deduct the amount from any state
46 appropriation to the system. An individual electing coverage under this
47 paragraph shall repay the amount of the shortage in member deductions,
48 plus interest, through deduction from salary or compensation payments
49 within the first year of employment after the election under section
50 354B.21, subject to the limitations in section 16D.16. The Minnesota
51 State Colleges and Universities system may use any means available to
52 recover amounts which were not recovered through deductions from salary or
53 compensation payments. No payment of the shortage in member deductions
54 under this paragraph may be made for a period longer than the most recent
55 36 months.

56
57 Sec. 3. Minnesota Statutes 2002, section 354B.23, subdivision 1,
58 is amended to read:

59 Subdivision 1. [MEMBER CONTRIBUTION RATE.]

1 ~~(a) Except as provided in paragraph (b),~~ The member contribution rate for
2 participants in the individual retirement account plan is 4.5 percent of
3 salary. ~~(b) For participants in the individual retirement account plan who~~
4 ~~were otherwise eligible to elect retirement coverage in the state~~
5 ~~unclassified employees retirement program, the member contribution rate is~~
6 ~~the rate specified in section 352D.04, subdivision 2, paragraph (a).~~
7

8 Sec. 4. Minnesota Statutes 2002, section 354B.32, is amended to
9 read: 354B.32 [TRANSFER OF FUNDS TO IRAP.]

10 A participant in the individual retirement account plan established in
11 this chapter who has less than ten years of allowable service under the
12 Teachers Retirement Association or ~~the a~~ teachers retirement fund
13 association, whichever applies, may elect to transfer an amount equal to
14 the participant's accumulated member contributions to the Teachers
15 Retirement Association or the applicable teachers retirement fund
16 association, plus compound interest at the rate of six percent per annum,
17 to the individual retirement account plan. The transfers are irrevocable
18 ~~fund to fund~~ fund-to-fund transfers, and, in no event, may the participant
19 receive direct payment of the money transferred ~~prior to retirement~~ before
20 the termination of employment. If a participant elects the contribution
21 transfer, all of the participant's allowable and formula service credit in
22 the Teachers Retirement Association or the teachers retirement fund
23 association associated with the transferred amount is forfeited. The
24 executive director of the Teachers Retirement Association and the chief
25 administrative officers of the teachers retirement fund associations, in
26 cooperation with the chancellor of the Minnesota State Colleges and
27 Universities system, shall notify participants who are eligible to
28 transfer of their right to transfer and the amount that they are eligible
29 to transfer, and shall, upon request, provide forms to implement the
30 transfer. The chancellor of the Minnesota State Colleges and Universities
31 system shall assist the Teachers Retirement Association and the teachers
32 retirement fund associations in developing transfer forms and in
33 implementing the transfers. Authority to elect a transfer under this
34 section expires on July 1, 2004.
35

36 Sec. 5. [EFFECTIVE DATE; RETROACTIVE APPLICATION.]

37 (a) Section 2 is effective on July 1, 2004.

38 (b) Section 2 applies to shortages in member deductions that
39 occurred before the effective date of the section.

40 (c) Sections 1, 3, and 4 are effective on July 1, 2004.
41

42 ARTICLE 6

43 REPORTING AND INFORMATION PROVISION

44

45 Section 1. Minnesota Statutes 2002, section 354.07, subdivision 9,
46 is amended to read:

47 Subd. 9. [INFORMATION DISTRIBUTION.] All school districts, the
48 Minnesota State Colleges and Universities, ~~community colleges~~ and other
49 employers of members of the association are obligated to distribute to
50 their employees ballots for the election of members to the board of
51 trustees, pamphlets, brochures, documents or any other material containing
52 association information which are prepared by the executive director or
53 the board and are delivered to the employers for distribution.
54

55 Sec. 3. Minnesota Statutes 2002, section 354.52, is amended by
56 adding a subdivision to read:

57 Subd. 4c. [MNSCU SERVICE CREDIT REPORTING.] For all part-time
58 service rendered on or after July 1, 2004, the service credit reporting
59 requirement in subdivision 4b for all part-time employees of the Minnesota
60 State Colleges and Universities system must be met by the Minnesota State

1 Colleges and Universities system reporting to the association on or before
 2 July 31 of each year the final calculation of each part-time member's
 3 service credit for the immediately preceding fiscal year based on the
 4 employee's assignments for the fiscal year.

5
 6 Sec. 6. [EFFECTIVE DATE.]

7 (a) Sections 1 to 4 are effective on July 1, 2004.

8 (b) Section 5 is effective retroactively to July 1, 2003, and
 9 expires when the requirement that the Legislative Commission on Pensions
 10 and Retirement retain a consulting actuary to perform annual actuarial
 11 valuations of retirement plans terminates.

12
 13 ARTICLE 11
 14 HEALTH CARE SAVINGS
 15 PLAN MODIFICATIONS
 16

17 Section 1. Minnesota Statutes 2002, section 352.98, is
 18 amended to read: 352.98 [~~POSTRETIREMENT~~ HEALTH CARE SAVINGS PLAN.]

19 Subdivision 1. [PLAN CREATED.] The Minnesota State Retirement
 20 System shall establish a plan or plans, known as ~~postretirement~~ health
 21 care savings plans, through which public employers and employees may save
 22 to cover ~~postretirement~~ health care costs. The Minnesota State Retirement
 23 System shall make available one or more trusts, including a governmental
 24 trust or governmental trusts, authorized under the Internal Revenue Code
 25 to be eligible for tax-preferred or tax-free treatment through which
 26 employers and employees can save to cover ~~postretirement~~ health care
 27 costs.

28 Subd. 2. [CONTRACTING AUTHORIZED.] The Minnesota State Retirement
 29 System is authorized to administer the plan and to contract with public
 30 and private entities to provide investment services, record keeping,
 31 benefit payments, and other functions necessary for the administration of
 32 the plan. If allowed by the Minnesota State Board of Investment, the
 33 Minnesota State Board of Investment supplemental investment funds may be
 34 offered as investment options under the ~~postretirement~~ health care savings
 35 plan or plans.

36 Subd. 3. [CONTRIBUTIONS.]

37 (a) Contributions to the plan ~~shall~~ must be determined through a
 38 personnel policy or in a collective bargaining agreement of a public
 39 employer with the exclusive representative of the covered employees in an
 40 appropriate unit. The Minnesota State Retirement System may offer
 41 different types of trusts permitted under the Internal Revenue Code to
 42 best meet the needs of different employee units.

43 (b) Contributions to the plan by or on behalf of the employee ~~shall~~
 44 must be held in trust for reimbursement of employee and dependent health-
 45 related expenses following retirement from public employment or during
 46 active employment. The Minnesota State Retirement System shall maintain a
 47 separate account of the contributions made by or on behalf of each
 48 participant and the earnings thereon. The Minnesota State Retirement
 49 System shall make available a limited range of investment options, and
 50 each employee may direct the investment of the accumulations in the
 51 employee's account among the investment options made available by the
 52 Minnesota State Retirement System. At the request of a participating
 53 employer and employee group, the Minnesota State Retirement System may
 54 determine how the assets of the affected employer and employee group
 55 should be invested.

56 (c) This section does not obligate a public employer to meet and
 57 negotiate in good faith with the exclusive bargaining representative of
 58 any public employee group regarding an employer contribution to a
 59 postretirement or active employee health care savings plan authorized by
 60 this section and section 356.24, subdivision 1, clause (7). It is not the

1 intent of the legislature to authorize the state to incur new funding
2 obligations for the costs of retiree health care or the costs of
3 administering retiree health care plans or accounts.

4 Subd. 4. [REIMBURSEMENT FOR HEALTH-RELATED EXPENSES.]

5 ~~Following termination of public service,~~ The Minnesota State Retirement
6 System shall reimburse employees at least quarterly for submitted health-
7 related expenses, as required by federal and state law, until the employee
8 exhausts the accumulation in the employee's account. If an employee dies
9 prior to exhausting the employee's account balance, the employee's spouse
10 or dependents ~~shall be~~ are eligible to be reimbursed for health care
11 expenses from the account until the account balance is exhausted. If an
12 account balance remains after the death of a participant and all of the
13 participant's legal dependents, the remainder of the account ~~shall~~ must be
14 paid to the employee's beneficiaries or, if none, to the employee's
15 estate.

16 Subd. 5. [FEES.] The Minnesota state retirement plan is authorized
17 to charge uniform fees to participants to cover the ongoing cost of
18 operating the plan. Any fees not needed ~~shall~~ must revert to participant
19 accounts or be used to reduce plan fees the following year. ~~The Minnesota~~
20 ~~State Retirement System is authorized to charge participating employers a~~
21 ~~fee, not to exceed one-sixth of the Federal Insurance Contribution Act~~
22 ~~savings realized by the employer as a result of participating in the plan,~~
23 ~~until the initial costs of establishing the plan or plans authorized by~~
24 ~~this section are recovered, or \$75,000, whichever is less.~~

25 Subd. 6. [ADVISORY COMMITTEE.]

26 (a) The Minnesota State Retirement System shall establish a
27 participant advisory committee for the health care savings plan, made up
28 of one representative appointed by each employee unit participating in the
29 plan. Each participating unit shall be responsible for the expenses of
30 its own representative.

31 (b) The advisory committee shall meet at least twice per year and
32 shall be consulted on plan offerings and vendor selection. By October 1
33 of each year, the Minnesota State Retirement System shall give the
34 advisory committee a statement of fees collected and the use of the fees.

35 Subd. 7. [CONTRACTING WITH PRIVATE ENTITIES.] Nothing in this
36 section ~~shall prohibit~~ prohibits employers from contracting with private
37 entities to provide for ~~postretirement~~ health care reimbursement plans.

38
39 Sec. 2. [EFFECTIVE DATE.] Section 1 is effective on the day
40 following final enactment.

**STATE EMPLOYEE LABOR AGREEMENT RATIFICATION
S.F. 1866 (Chapter 296)**

SUMMARY: This bill provides Legislative ratification of the state employee labor agreements that have been in place since July 1, 2003 with the exception of the IFO, Inter-Faculty Organization. A wide range of employee agreements impacts Minnesota State College and Universities employees. These provisions now remain in effect until June 30, 2005.

The Minnesota State Colleges and Universities Board of Trustees and the Inter-Faculty Organization reached a tentative contract settlement on July 1, 2004. When the legislature is not in session, the Legislative Coordinating Commission Subcommittee on Employee Relations is empowered to review and accept contract settlements conditionally pending formal legislative approval by the full legislature in 2005.

Section	<i>State Employee Labor Agreement Ratification</i>	Language Page
1	<p>This bill ratifies labor agreements and compensation plans governing state employees. These labor agreements cover the period from July 1, 2003 to June 30, 2005. Contracts approved include:</p> <p>Subd. 1. AFSCME. American Federation of State County and Municipal Employees, Council 6.</p> <p>Subd. 2. MAPE. Minnesota Association of Professional Employees.</p> <p>Subd. 3. Commissioner's plan. Commissioner of employee relations for non-managerial state employees who are not represented by a union.</p> <p>Subd. 5. MnSCU Administrators. Personnel plan for MnSCU administrators who are not represented by a union.</p> <p>Subd. 7. MSUAASF. Minnesota State University Association of Administrative and Service Faculty.</p> <p>Subd. 8. MSCF. Minnesota State College Faculty.</p> <p>Subd. 10. MMA. Middle Management Association.</p>	31
2	<p>Effective Date. Section 1 is effective the day following final enactment.</p>	31

1
2 **STATE EMPLOYEE LABOR AGREEMENT RATIFICATION**
3 **S.F. 1866 (Chapter 296)**
4

5 Section 1. [LABOR AGREEMENTS AND COMPENSATION PLANS.]

6 Subdivision 1. [AFSCME.] The labor agreement between the state of
7 Minnesota and the American Federation of State, County, and Municipal
8 Employees, units 2, 3, 4, 6, and 7, approved by the Legislative
9 Coordinating Commission Subcommittee on Employee Relations on November 17,
10 2003, is ratified.

11 Subd. 2. [MAPE.] The labor agreement between the state of
12 Minnesota and the Minnesota Association of Professional Employees,
13 approved by the Legislative Coordinating Commission Subcommittee on
14 Employee Relations on November 17, 2003, is
15 ratified.

16 Subd. 3. [COMMISSIONER'S PLAN.] The commissioner of employee
17 relations' plan for unrepresented employees, approved by the Legislative
18 Coordinating Commission Subcommittee on Employee Relations on November 17,
19 2003, is ratified.

20 Subd. 4. [MANAGERIAL PLAN.] The managerial plan, approved by the
21 Legislative Coordinating Commission Subcommittee on Employee Relations on
22 November 17, 2003, is ratified.

23 Subd. 5. [MNSCU ADMINISTRATORS.] The personnel plan for
24 Minnesota State Colleges and Universities administrators, approved by the
25 Legislative Coordinating Commission Subcommittee on Employee Relations on
26 December 29, 2003, is ratified.

27 Subd. 6. [HESO.] The proposal to increase the salary of the
28 director of the Higher Education Services Office, approved by the
29 Legislative Coordinating Commission Subcommittee on Employee Relations on
30 December 29, 2003, is ratified.

31 Subd. 7. [MSUAASF.] The labor agreement between the state of
32 Minnesota and the Minnesota State University Association of Administrative
33 and Service Faculty, approved by the Legislative
34 Coordinating Commission Subcommittee on Employee Relations on February 2,
35 2004, is ratified.

36 Subd. 8. [COLLEGE FACULTY.] The labor agreement between the state
37 of Minnesota and the Minnesota state college faculty, approved by the
38 Legislative Coordinating Commission Subcommittee on Employee Relations on
39 February 2, 2004, is ratified.

40 Subd. 9. [SRSEA.] The labor agreement between the state of
41 Minnesota and the State Residential Schools Education Association (SRSEA),
42 approved by the Legislative Coordinating Commission Subcommittee on
43 Employee Relations on March 19, 2004, is ratified.

44 Subd. 10. [MMA.] The labor agreement between the state of
45 Minnesota and the Middle Management Association (MMA), approved by the
46 Legislative Coordinating Commission Subcommittee on Employee Relations on
47 March 19, 2004, is ratified.

48
49 Sec. 2. [EFFECTIVE DATE.]

50 Section 1 is effective the day following final enactment.

VETERANS BENEFITS BILL
H.F. 2166 (Chapter 256)

SUMMARY: This bill amends the tuition and textbook reimbursement grant program for members of the Minnesota National Guard. The bill increases the reimbursement rate for the cost of tuition for the program in which the person is enrolled at that Minnesota public institution, from 50 percent to “up to 100” percent.

Section	<i>Veterans Benefits Bill</i>	Language Page
ARTICLE 1		
3	Tuition and Textbook Reimbursement Grant Program. This section increases the amount of a tuition and textbook reimbursement grant for members of the Minnesota National Guard from 50 percent to “up to 100” percent. This applies for Guard members enrolled at a Minnesota public institution.	35
9	Effective Date. Section 3 is effective July 1, 2004.	36

1
2 **VETERANS BENEFITS BILL**
3 **H.F. 2166 (Chapter 256)**

4
5
6 ARTICLE 1

7 Sec. 3. Minnesota Statutes 2003 Supplement, section 192.501,
8 subdivision 2, is amended to read:

9 Subd. 2. [TUITION AND TEXTBOOK REIMBURSEMENT GRANT PROGRAM.]

10 (a) The adjutant general shall establish a program to provide
11 tuition and textbook reimbursement grants to eligible members of the
12 Minnesota National Guard within the limitations of this subdivision.

13 (b) Eligibility is limited to a member of the National Guard who:

14 (1) is serving satisfactorily as defined by the adjutant general;

15 (2) is attending a postsecondary educational institution, as defined
16 by section 136A.15, subdivision 6, including a vocational or technical
17 school operated or regulated by this state or another state or province;
18 and

19 (3) provides proof of satisfactory completion of coursework, as
20 defined by the adjutant general. In addition, if a member of the Minnesota
21 National Guard is killed in the line of state active service or federally
22 funded state active service, as defined in section 190.05, subdivisions 5a
23 and 5b, the member's surviving spouse, and any surviving dependent who has
24 not yet reached 24 years of age, is eligible for a tuition and textbook
25 reimbursement grant.

26 The adjutant general may, within the limitations of this paragraph
27 and other applicable laws, determine additional eligibility criteria for
28 the grant, and must specify the criteria in department regulations and
29 publish changes as necessary.

30 (c) The amount of a tuition and textbook reimbursement grant must be
31 specified on a schedule as determined and published in department
32 regulations by the adjutant general, but is limited to a maximum of an
33 amount equal to the greater of:

34 (1) 75 up to 100 percent of the cost of tuition for lower division
35 programs in the College of Liberal Arts at the Twin Cities campus of the
36 University of Minnesota in the most recent academic year; or

37 (2) ~~50~~ up to 100 percent of the cost of tuition for the program in
38 which the person is enrolled at that Minnesota public institution, or if
39 that public institution is outside the state of Minnesota, for the cost of
40 a comparable program at the University of Minnesota, except that in the
41 case of a survivor as defined in paragraph (b), the amount of the tuition
42 and textbook reimbursement grant for coursework satisfactorily completed
43 by the person is limited to 100 percent of the cost of tuition for
44 postsecondary courses at a Minnesota public educational institution.

45 Paragraph (b) notwithstanding, a person is no longer eligible for a
46 grant under this subdivision once the person has received grants under
47 this subdivision for the equivalent of 208 quarter credits or 144 semester
48 credits of coursework.

49 (d) Tuition and textbook reimbursement grants received under this
50 subdivision may not be considered by the Minnesota Higher Education
51 Services Office or by any other state board, commission, or entity in
52 determining a person's eligibility for a scholarship or grant-in-aid under
53 sections 136A.095 to 136A.1311.

54 (e) If a member fails to complete a term of enlistment during which
55 a tuition and textbook reimbursement grant was paid, the adjutant general
56 may seek to recoup a prorated amount as determined by the adjutant
57 general.

58
59

1 Sec. 9. [EFFECTIVE DATE.]
2 This article is effective July 1, 2004.

**HELP AMERICA VOTE ACT
H.F. 1006 (Chapter 293)**

SUMMARY: This bill provides for conformity with the federal Help America Vote Act. These changes are necessary for the state to access approximately \$38 million in federal funds. However, the final language does not include an appropriation of these federal dollars, so additional legislation must be passed to allow the state to expend the funds. The bill makes changes to the voter registration process with an impact on student voter registration.

Section	<i>Help America Vote Act</i>	Language Page
ARTICLE 1		
HAVA Compliance		
3	Prior To Election Day. This section changes the voter “registration card” language to read “registered application.” This section also defines mail registration as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.	39
6	Form. This section includes additional criteria that must be on a voter registration application. This includes; current and valid Minnesota driver’s license number, Minnesota state identification number, or the last four digits of the voter’s social security number. The application may also include the voter’s email address if the voter provides it, and the voter’s interest in serving as an election judge if indicated by the voter. The application must also contain certification of voter eligibility.	39
7	Instructions. This section indicates that the instructions that accompany a registration application must indicate that if the voter does not have a valid Minnesota driver’s license or identification card, the last four digits of the voter’s social security number must be provided unless the voter does not have a social security number.	40
8	Deficient Registration. This section includes situations that will not make a registration deficient. Failure to check a box on an application form that a voter has certified to be true does not cause the registration to be deficient. A voter registration application is also not deficient for lack of a valid Minnesota driver’s license, state identification number, or the last four digits of a social security number.	40

1
2 **HELP AMERICA VOTE ACT**
3 **H.F. 1006 (Chapter 293)**

4
5 ARTICLE 1
6 HAVA COMPLIANCE

7
8 Sec. 3. Minnesota Statutes 2002, section 201.061, subdivision 1,
9 is amended to read:

10 Subdivision 1. [PRIOR TO ELECTION DAY.] At any time except during
11 the 20 days immediately preceding any election, an eligible voter or any
12 individual who will be an eligible voter at the time of the next election
13 may register to vote in the precinct in which the voter maintains
14 residence by completing a voter registration card application as described
15 in section 201.071, subdivision 1, and submitting it in person or by mail
16 to the county auditor of that county or to the Secretary of State's
17 Office. A registration that is received no later than 5:00 p.m. on the
18 21st day preceding any election shall be accepted. An improperly
19 addressed or delivered registration card application shall be forwarded
20 within two working days after receipt to the county auditor of the county
21 where the voter maintains residence. A state or local agency or an
22 individual that accepts completed voter registration cards applications
23 from a voter must submit the completed cards applications to the secretary
24 of state or the appropriate county auditor within ten days after the cards
25 applications are dated by the voter.

26 For purposes of this section, mail registration is defined as a
27 voter registration application delivered to the secretary of state, county
28 auditor, or municipal clerk by the United States Postal Service or a
29 commercial carrier.

30
31 Sec. 6. Minnesota Statutes 2002, section 201.071, subdivision 1,
32 is amended to read:

33 Subdivision 1. [FORM.] A voter registration card application must
34 be of suitable size and weight for mailing and contain spaces for the
35 following required information: voter's first name, middle name, and last
36 name; voter's previous name, if any; voter's current address; voter's
37 previous address, if any; voter's date of birth; voter's municipality and
38 county of residence; voter's telephone number, if provided by the voter;
39 date of registration; current and valid Minnesota driver's license number
40 or Minnesota state identification number, or if the voter has no current
41 and valid Minnesota driver's license or Minnesota state identification,
42 the last four digits of the voter's Social Security number; and voter's
43 signature. The registration application may include the voter's e-mail
44 address, if provided by the voter, and the voter's interest in serving as
45 an election judge, if indicated by the voter. The card application must
46 also contain a the following certification of voter eligibility-:

47 "I certify that I:

48 (1) will be at least 18 years old on election day;

49 (2) am a citizen of the United States;

50 (3) will have resided in Minnesota for 20 days immediately
51 preceding election day;

52 (4) maintain residence at the address given on the registration
53 form;

54 (5) am not under court-ordered guardianship of the person where I
55 have not retained the right to vote;

56 (6) have not been found by a court to be legally incompetent to
57 vote;

58 (7) have not been convicted of a felony without having my civil
59 rights restored; and

1 (8) have read and understand the following statement: that giving
2 false information is a felony punishable by not more than five years
3 imprisonment or a fine of not more than \$10,000, or both."

4 The certification must include boxes for the voter to respond to
5 the following questions:

6 "(1) Are you a citizen of the United States?" and

7 "(2) Will you be 18 years old on or before election day?"

8 And the instruction:

9 "If you checked 'no' to either of these questions, do not complete
10 this form."

11 The form of the voter registration ~~card~~ application and the
12 certification of voter eligibility must be as provided in ~~the rules of the~~
13 ~~secretary of state~~ this subdivision and approved by the secretary of
14 state. Voter registration forms authorized by the National Voter
15 Registration Act may also be accepted as valid.

16 An individual may use a voter registration application to apply to
17 register to vote in Minnesota or to change information on an existing
18 registration.

19
20 Sec. 7. Minnesota Statutes 2002, section 201.071, subdivision 2,
21 is amended to read:

22 Subd. 2. [INSTRUCTIONS.] A registration ~~card~~ application shall be
23 accompanied by instructions specifying the manner and method of
24 registration, the qualifications for voting, the penalties for false
25 registration, and the availability of registration and voting assistance
26 for elderly and handicapped individuals and residents of health care
27 facilities and hospitals. The instructions must indicate that if the
28 voter does not have a valid Minnesota driver's license or identification
29 card, the last four digits of the voter's Social Security number must be
30 provided, unless the voter does not have a Social Security number. If,
31 prior to election day, a person requests the instructions in Braille, on
32 cassette tape, or in a version printed in 16-point bold type with heavy
33 24-point leading, the county auditor shall provide them in the form
34 requested. The secretary of state shall prepare Braille and cassette
35 copies and make them available.

36
37 Sec. 8. Minnesota Statutes 2002, section 201.071, subdivision 3,
38 is amended to read:

39 Subd. 3. [DEFICIENT REGISTRATION.] No voter registration
40 application is deficient if it contains the voter's name, address, date of
41 birth, current and valid Minnesota driver's license number or Minnesota
42 state identification number, or if the voter has no current and valid
43 Minnesota driver's license or Minnesota state identification number, the
44 last four digits of the voter's Social Security number, if the voter has
45 been issued a Social Security number, prior registration, if any, and
46 signature. The absence of a zip code number does not cause the
47 registration to be deficient. Failure to check a box on an application
48 form that a voter has certified to be true does not cause the registration
49 to be deficient. The election judges shall request an individual to
50 correct a voter registration ~~card~~ application if it is deficient or
51 illegible or if the name or number of the voter's school district is
52 missing or obviously incorrect. No eligible voter may be prevented from
53 voting unless the voter's registration ~~card~~ application is deficient or
54 the voter is duly and successfully challenged in accordance with section
55 201.195 or 204C.12.

56 A voter registration ~~card~~ application accepted prior to August 1,
57 1983, is not deficient for lack of date of birth. The county or
58 municipality may attempt to obtain the date of birth for a voter
59 registration ~~card~~ application accepted prior to August 1, 1983, by a
60 request to the voter at any time except at the polling place. Failure by

1 the voter to comply with this request does not make the registration
2 deficient.

3 A voter registration application accepted before January 1, 2004,
4 is not deficient for lack of a valid Minnesota driver's license or state
5 identification number or the last four digits of a Social Security number.
6 A voter registration application submitted by a voter who does not have a
7 Minnesota driver's license or state identification number, or a Social
8 Security number, is not deficient for lack of any of these numbers.
9

STATE LANDS BILL
H.F. 2334 (Chapter 262)

SUMMARY: This bill contains a range of procedural changes applicable to the Department of Administration and the Department of Natural Resources in how sales of state land must be handled.

Section	<i>State Lands Bill</i>	Language Page
ARTICLE 1		
Sale and Disposition of Surplus Lands		
2	<p>Sale and Disposition of Surplus State-Owned Land. Subdivision 2. Certification Required. By July 1 of each year, each agency shall certify in writing to the commissioner whether there is any state-owned land under control and supervision of that agency that is no longer needed.</p> <p>Subdivision 3. Notice to Agencies; Determination of Surplus. By October 1 of each year, the commissioner shall review the certifications of each agency and shall notify all state departments, agencies, and the University of Minnesota describing any lands that have been declared surplus. This gives public entities the first chance at obtaining state land.</p> <p>Subdivision 6. Maintenance of Land Before Sale. The state agency holding custodial control of state land shall maintain that land until it is sold or otherwise disposed of.</p>	45
33	<p>Notice to Agencies; Determination of Surplus. This section changes authority to notify all state agencies of surplus land from the commissioner of administration to the commissioner of natural resources.</p>	45
41	<p>Repealer. Minnesota Statutes 2002, section 92.09 is repealed. This section refers to land that can be subdivided, appraised and reappraised. Section 92.11 is also repealed. This section refers to land appraisal. Section 94.09, subdivisions 2, 4, 5 and 6 is also repealed. This section refers to state agency certification of land, Executive Council approval, the report required by the commissioner of administration, and maintenance of land before sale.</p>	46
42	<p>Effective Date. All sections are effective August 1, 2004.</p>	46

1
2 **STATE LANDS BILL**
3 **H.F. 2334 (Chapter 262)**

4
5 ARTICLE 1
6 SALE AND DISPOSITION OF SURPLUS LANDS

7
8 Sec. 2. [16B.281] [SALE AND DISPOSITION OF SURPLUS STATE-OWNED
9 LAND.]

10 Subd. 2. [CERTIFICATION REQUIRED.] On or before July 1 of each
11 year, the head of each department or agency having control and supervision
12 over any state-owned land, the sale or disposition of which is not
13 otherwise provided for by law, shall certify in writing to the
14 commissioner whether there is any state-owned land under control and
15 supervision of that department or agency that is no longer needed. If the
16 certification discloses lands no longer needed for a department or agency,
17 the head of the department or agency shall include in the certification a
18 description of the lands and the reasons why the lands are no longer
19 needed.

20 Subd. 3. [NOTICE TO AGENCIES; DETERMINATION OF SURPLUS.]
21 On or before October 1 of each year, the commissioner shall review the
22 certifications of heads of each department or agency provided for in this
23 section. The commissioner shall send written notice to all state
24 departments, agencies, and the University of Minnesota describing any
25 lands or tracts that may be declared surplus. If a department or agency
26 or the University of Minnesota desires custody of the lands or tracts, it
27 shall submit a written request to the commissioner, no later than four
28 calendar weeks after mailing of the notice, setting forth in detail its
29 reasons for desiring to acquire and its intended use of the land or tract.
30 The commissioner shall then determine whether any of the lands described
31 in the certifications of the heads of the departments or agencies should
32 be declared surplus and offered for sale or otherwise disposed of by
33 transferring custodial control to other requesting state departments or
34 agencies or to the Board of Regents of the University of Minnesota for
35 educational purposes, provided however that transfer to the Board of
36 Regents shall not be determinative of tax exemption or immunity. If the
37 commissioner determines that any of the lands are no longer needed for
38 state purposes, the commissioner shall make findings of fact, describe the
39 lands, declare the lands to be surplus state land, state the reasons for
40 the sale or disposition of the lands, and notify the Executive Council of
41 the determination.

42 Subd. 6. [MAINTENANCE OF LAND BEFORE SALE.] The state department
43 or agency holding custodial control shall maintain the state-owned lands
44 until the lands are sold or otherwise disposed of as provided for in
45 sections 16B.281 to 16B.287.

46
47 Sec. 33. Minnesota Statutes 2002, section 94.09, subdivision 3, is
48 amended to read:

49 Subd. 3. [NOTICE TO AGENCIES; DETERMINATION OF SURPLUS.]
50 ~~On or before October 1 of each year, the commissioner of administration~~
51 ~~shall review the certifications of heads of each department or agency~~
52 ~~provided for in this section.~~ The commissioner of natural resources shall
53 send written notice to all state departments, agencies and the University
54 of Minnesota describing any lands or tracts which may be declared surplus.
55 If a department or agency or the University of Minnesota desires custody
56 of the lands or tracts, it shall submit a written request to the
57 commissioner, no later than four calendar weeks after mailing of the
58 notice, setting forth in detail its reasons for desiring to acquire, and
59 its intended use of, the land or tract. The commissioner of

1 ~~administration~~ shall then determine whether any of the lands described in
2 the certifications of the heads of the departments or agencies should be
3 declared surplus and offered for sale or otherwise disposed of by
4 transferring custodial control to other requesting state departments or
5 agencies or to the Board of Regents of the University of Minnesota for
6 educational purposes, provided however that transfer to the Board of
7 Regents shall not be determinative of tax exemption or immunity. If the
8 commissioner determines that any of ~~such~~ the lands are no longer needed
9 for state purposes, the commissioner shall make findings of fact, describe
10 the lands, declare ~~such~~ the lands to be surplus state land, and state the
11 reasons for the sale or disposition thereof, and ~~notify the state~~
12 ~~Executive Council of such determination~~ of the lands.

13
14 Sec. 41. [REPEALER.] Minnesota Statutes 2002, sections 92.09;
15 92.11; and 94.09, subdivisions 2, 4, 5, and 6, are repealed.

16
17 Sec. 42. [EFFECTIVE DATE.] Sections 1 to 41 are effective August
18 1, 2004.

TELECOMMUNICATIONS SYSTEMS**S.F. 653 (Chapter 282)**

SUMMARY: This bill regulates multi-line telephone systems operated by a public or private educational institution, including a system serving dormitories. The language ensures that calls to 911 from any telephone on the system result in one of three options: automatic location identification for each emergency response location, an ability to direct emergency responders to the 911 caller's location through an alternative and adequate means, such as the establishment of a 24-hour private answering point, or a connection to a switchboard operator, attendant or other designated on-site individual. This bill applies to new multi-line telephone systems purchased after December 31, 2004.

Section	<i>Telecommunications Systems</i>	Language Page
2	Multistation or PBX System. This section references a multiline telephone system instead of the original language of a telecommunications system.	49
3	Call Back Number. This section defines "call back number" to mean a number used by the public safety answering point to recontact the location from which the 911 call was placed.	49
4	Emergency Location Identification Number. This section defines "emergency location identification number" to mean a valid North American numbering plan format telephone number that is assigned to the multiline telephone system operator by the appropriate authority. This is used to route the call to a public safety answering point and to retrieve the automatic location identification for the public safety answering point.	49
5	Emergency Response Location. This section defines "emergency response location" to mean a location to which a 911 emergency response team may be dispatched. The location must be specific enough to provide a reasonable opportunity for the emergency team to locate a caller anywhere within it.	49
6	Multiline Telephone System. This section defines "multiline telephone system" to mean a private telephone system comprised of common control units, telephones, and control hardware and software that share a common interface to the public switched telephone network. This includes systems owned or leased by governmental agencies.	49
7	Shared Residential Multiline Telephone System Service. This section defines "shared residential multiline telephone service" to mean the use of a multiline telephone system to provide service to residential facilities.	49
8	Liability. This section states that a multiline telephone system manufacturer, provider or operator is not liable for any civil damages or penalties as a result of any act of misconduct in connection with implementing any plan or system.	49
9	Multiline Telephone System 911 Requirements.	50

Subdivision 1. Multistation or PBX System. Every owner and operator of a new multistation or PBX multiline telephone system shall design the system to provide a call back number and emergency response location for systems purchased after December 31, 2004.

Subdivision 2. Multiline Telephone System User Dialing Instructions. This section requires each multiline telephone system operator to demonstrate or otherwise inform each new telephone system user how to call for emergency assistance.

Subdivision 3. Shared Residential Multiline Telephone System. This section requires operators of shared multiline telephone systems, whenever installed, to ensure that the system is connected to the public switched network and that 911 calls result in at least one distinctive automatic number identification by January 1, 2005. This section does not apply to educational institutions.

Subdivision 6. Schools. For multiline telephone systems operated by a public or private education institution, including a system serving dormitories, the operator of the education institution multiline system must ensure that calls to 911 result in one of the following:

- 1) automatic location identification for each respective emergency response location;
- 2) an ability to direct emergency responders to the 911 caller's location through an alternative and adequate means, such as the establishment of a 24-hour private answering point; or
- 3) a connection to a switchboard operator, attendant, or other designated on-site individual.

Subdivision 7. Exemptions. This section exempts multiline telephone systems with a single emergency response location, and multiline telephone system operators that employ alternative methods of enhanced 911 support. A multiline telephone system operator may also apply for an exemption from the requirements in this section from the chief officer of each public safety answering point serving that jurisdiction.

Subdivision 8. Applicability. The requirements of subdivision 4, 5 and 6 apply to new multiline telephone systems purchased after December 31, 2004.

11 Effective Date. All sections are effective the day following final enactment.

51

TELECOMMUNICATIONS SYSTEMS**S.F. 653 (Chapter 282)**

Sec. 2. Minnesota Statutes 2002, section 403.01, subdivision 6, is amended to read:

Subd. 6. [MULTISTATION OR PBX SYSTEM.] Every owner and operator of a multistation or private branch exchange (PBX) ~~telecommunications~~ multiline telephone system shall design and maintain the system to dial the 911 number without charge to the caller.

Sec. 3. Minnesota Statutes 2002, section 403.02, is amended by adding a subdivision to read:

Subd. 22. [CALL BACK NUMBER.] "Call back number" means a number used by the public safety answering point to recontact the location from which the 911 call was placed.

Sec. 4. Minnesota Statutes 2002, section 403.02, is amended by adding a subdivision to read:

Subd. 23. [EMERGENCY LOCATION IDENTIFICATION NUMBER.] "Emergency location identification number" means a valid North American numbering plan format telephone number, assigned to the multiline telephone system operator by the appropriate authority, that is used to route the call to a public safety answering point and is used to retrieve the automatic location identification for the public safety answering point.

Sec. 5. Minnesota Statutes 2002, section 403.02, is amended by adding a subdivision to read:

Subd. 24. [EMERGENCY RESPONSE LOCATION.] "Emergency response location" means a location to which a 911 emergency response team may be dispatched. The location must be specific enough to provide a reasonable opportunity for the emergency response team to locate a caller anywhere within it.

Sec. 6. Minnesota Statutes 2002, section 403.02, is amended by adding a subdivision to read:

Subd. 25. [MULTILINE TELEPHONE SYSTEM.] "Multiline telephone system" means a private telephone system comprised of common control units, telephones, and control hardware and software that share a common interface to the public switched telephone network. This includes network and premises-based systems and systems owned or leased by governmental agencies and nonprofit entities, as well as for-profit businesses.

Sec. 7. Minnesota Statutes 2002, section 403.02, is amended by adding a subdivision to read:

Subd. 26. [SHARED RESIDENTIAL MULTILINE TELEPHONE SYSTEM SERVICE.] "Shared residential multiline telephone service" means the use of a multiline telephone system to provide service to residential facilities. For purposes of this subdivision, "residential facilities" means both single-family and multifamily facilities including extended care facilities and dormitories.

Sec. 8. Minnesota Statutes 2002, section 403.07, subdivision 5, is amended to read:

Subd. 5. [LIABILITY.]

(a) A wire line telecommunications service provider, its employees, or its agents are not liable to any person who uses enhanced 911 telecommunications service for release of subscriber information required under this chapter to any public safety answering point.

1 (b) A wire line telecommunications service provider is not liable
2 to any person for the good faith release to emergency communications
3 personnel of information not in the public record, including, but not
4 limited to, nonpublished or nonlisted telephone numbers.

5 (c) A wire line telecommunications service provider, its employees,
6 or its agents are not liable to any person for civil damages resulting
7 from or caused by any act or omission in the development, design,
8 installation, operation, maintenance, performance, or provision of
9 enhanced 911 telecommunications service, except for willful or wanton
10 misconduct.

11 (d) A multiline telephone system manufacturer, provider, or
12 operator is not liable for any civil damages or penalties as a result of
13 any act or omission, except willful or wanton misconduct, in connection
14 with developing, designing, installing, maintaining, performing,
15 provisioning, adopting, operating, or implementing any plan or system
16 required by section 403.15.

17
18 Sec. 9. [403.15] [MULTILINE TELEPHONE SYSTEM 911 REQUIREMENTS.]

19 Subdivision 1. [MULTISTATION OR PBX SYSTEM.] Except as otherwise
20 provided in this section, every owner and operator of a new multistation
21 or private branch exchange (PBX) multiline telephone system purchased
22 after December 31, 2004, shall design and maintain the system to provide a
23 call back number and emergency response location.

24 Subd. 2. [MULTILINE TELEPHONE SYSTEM USER DIALING INSTRUCTIONS.]
25 Each multiline telephone system operator must demonstrate or otherwise
26 inform each new telephone system user how to call for emergency assistance
27 from that particular multiline telephone system.

28 Subd. 3. [SHARED RESIDENTIAL MULTILINE TELEPHONE SYSTEM.] On and
29 after January 1, 2005, operators of shared multiline telephone systems,
30 whenever installed, serving residential customers shall ensure that the
31 shared multiline telephone system is connected to the public switched
32 network and that 911 calls from the system result in at least one
33 distinctive automatic number identification and automatic location
34 identification for each residential unit, except those requirements do not
35 apply if the residential facility maintains one of the following:

36 (1) automatic location identification for each respective emergency
37 response location;

38 (2) the ability to direct emergency responders to the 911 caller's
39 location through an alternative and adequate means, such as the
40 establishment of a 24-hour private answering point; or

41 (3) a connection to a switchboard operator, attendant, or other
42 designated on-site individual.

43 Subd. 6. [SCHOOLS.] A multiline telephone system operated by a
44 public or private educational institution, including a system serving
45 dormitories and other residential customers, is subject to this
46 subdivision and is not subject to subdivision 3. The operator of the
47 education institution multiline system connected to the public switched
48 network must ensure that calls to 911 from any telephone on the system
49 result in one of the following:

50 (1) automatic location identification for each respective emergency
51 response location;

52 (2) an ability to direct emergency responders to the 911 caller's
53 location through an alternative and adequate means, such as the
54 establishment of a 24-hour private answering point; or

55 (3) a connection to a switchboard operator, attendant, or other
56 designated on-site individual.

57 Subd. 7. [EXEMPTIONS.]

58 (a) Multiline telephone systems with a single emergency response
59 location are exempt from subdivisions 1 and 3 to 6 and section 403.07,
60 subdivision 3.

1 (b) Multiline telephone system operators that employ alternative
2 methods of enhanced 911 support are exempt from subdivisions 1 and 3 to 6
3 and section 403.07, subdivision 3.

4 (c) A multiline telephone system operator may apply for an
5 exemption from the requirements in this section from the chief officer of
6 each public safety answering point serving that jurisdiction.

7 Subd. 8. [APPLICABILITY.] The requirements of subdivisions 4, 5,
8 and 6 apply to new multiline telephone systems purchased after December
9 31, 2004. The requirements of subdivisions 2 and 3 and the exemptions in
10 subdivision 7 apply regardless of when the multiline telephone system was
11 installed.

12
13 Sec. 11. [EFFECTIVE DATE.]
14 Sections 2 to 10 are effective the day following final enactment.

SPECIAL REVENUE FUND ACCOUNTS**H.F. 2446 (Chapter 284)**

SUMMARY: This bill requires the Commissioner of Finance to review all accounts in the special revenue fund with a report to the Legislature on the need for the account and history of the account. A fund is a fiscal entity that has a self-balancing set of accounts. A fund segregates activity for legal compliance, for the purpose of attaining Board of Trustees objectives or for financial management. The Commissioner is directed to eliminate accounts in special revenue funds that have had little activity in the past four years. The bill also requires state agencies to separately show adjustments to the base budget in the biennial budget request.

Section	<i>Special Revenue Fund Accounts Bill</i>	Language Page
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ARTICLE 1**Special Revenue Accounts**

2	Commissioner to Manage Funds and Accounts. This section authorizes the Commissioner of Finance to eliminate an account that is no longer needed for the purposes specified in law. The Commissioner is required to eliminate certain small accounts unless the Commissioner determines that the account is necessary for efficient fiscal operation. This section also provides that balances from eliminated accounts must be transferred to the general fund unless otherwise specified in law, and the Commissioner is required to notify the legislature when an account established in law is eliminated.	55
3	Report. This section requires each agency that manages accounts within a fund to report to appropriate legislative committees at least annually on recent financial activity in those accounts. The Commissioner must establish the criteria and timing for these reports.	55
4	Special Revenue Fund Accounts. This section states that the Commissioner of Finance shall review the accounts in the accounting special revenue fund. The review must include an explanation on why the account should not be in the general fund. Beginning with the 2005 Session, the Commissioner shall report to the legislature on the accounts reviewed and recommend any accounts to be terminated.	55

ARTICLE 2**State Budget Process**

5	Part Two: Detailed Budget. This section requires state agencies to separately show any adjustments to the base budget in the biennial budget request.	55
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1
2 **SPECIAL REVENUE FUND ACCOUNTS**
3 **H.F. 2446 (Chapter 284)**

4
5 ARTICLE 1
6 SPECIAL REVENUE ACCOUNTS
7

8 Sec. 2. Minnesota Statutes 2002, section 16A.53, is amended by
9 adding a subdivision to read:

10 Subd. 3. [COMMISSIONER TO MANAGE FUNDS AND ACCOUNTS.]

11 (a) As necessary, the commissioner may eliminate an account that is
12 no longer needed for the purposes specified for it in law.

13 (b) The commissioner must eliminate an account that meets the
14 criteria in paragraph (c) unless the commissioner determines that the
15 account is necessary for efficient fiscal operation.

16 (c) Criteria for account elimination are:

17 (1) receipts to the account and transfers into the account average
18 less than \$1,000 per year in the past four years;

19 (2) year-end balances in the past four years average less than
20 \$1,000 per year; and

21 (3) the account has been in existence for at least four years.

22 (d) Any balances in an eliminated account must be transferred to
23 the general fund unless some other disposition is specified in law. If
24 the commissioner eliminates an account established in law, the
25 commissioner must notify the legislature, in a report to the appropriate
26 finance committees, of the elimination.
27

28 Sec. 3. Minnesota Statutes 2002, section 16A.53, is amended by
29 adding a subdivision to read:

30 Subd. 4. [REPORT.] Each agency that manages accounts within a fund
31 must report at least annually to the appropriate finance committees of the
32 legislature on the number, purpose, and recent financial activity in those
33 accounts. The commissioner must establish uniform criteria and timing for
34 the reports.
35

36 Sec. 4. [SPECIAL REVENUE FUND ACCOUNTS.]

37 Beginning in fiscal year 2005, the commissioner of finance shall review
38 one-quarter of the accounts in the accounting special revenue fund. Each
39 following year, the commissioner shall review an additional one-quarter of
40 the accounts until they have all been evaluated. This review must
41 categorize the accounts by type and include a legislative history of each
42 account, a financial history of each account, and a rationale for the
43 existence of the account under generally accepted accounting principles.
44 The review must explain why the account should not be in the general fund.
45 Beginning with the 2005 regular session, the commissioner shall report to
46 the legislature on the accounts reviewed and recommend any accounts that
47 should be terminated. The commissioner shall work with house and senate
48 fiscal staff to determine the categorization of accounts and other
49 standards for the review.
50

51 ARTICLE 2
52 STATE BUDGET PROCESS
53

54 Sec. 5. Minnesota Statutes 2003 Supplement, section 16A.11,
55 subdivision 3, is amended to read:

56 Subd. 3. [PART TWO: DETAILED BUDGET.]

57 (a) Part two of the budget, the detailed budget estimates both of
58 expenditures and revenues, must contain any statements on the financial
59 plan which the governor believes desirable or which may be required by the

1 legislature. The detailed estimates shall include the governor's budget
2 arranged in tabular form.

3 (b) Tables listing expenditures for the next biennium must show the
4 appropriation base for each year ~~as well as the governor's total~~
5 ~~recommendation for that year for each expenditure line.~~ The appropriation
6 base is the amount appropriated for the second year of the current
7 biennium, ~~adjusted in accordance with any provisions of law that specify~~
8 ~~changes to the base.~~ The tables must separately show any adjustments to
9 the base required by current law or policies of the commissioner of
10 finance. For forecasted programs, the tables must also show the amount of
11 the forecast adjustments, based on the most recent forecast prepared by
12 the commissioner of finance under section 16A.103. For all programs, the
13 tables must show the amount of appropriation changes recommended by the
14 governor, after adjustments to the base and forecast adjustments, and the
15 total recommendation of the governor for that year.

16 (c) The detailed estimates must include a separate line listing the
17 total cost of professional and technical service contracts for the prior
18 biennium and the projected costs of those contracts for the current and
19 upcoming biennium. They must also include a summary of the personnel
20 employed by the agency, reflected as full-time equivalent positions.

21 (d) The detailed estimates for internal service funds must include
22 the number of full-time equivalents by program; detail on any loans from
23 the general fund, including dollar amounts by program; proposed
24 investments in technology or equipment of \$100,000 or more; an explanation
25 of any operating losses or increases in retained earnings; and a history
26 of the rates that have been charged, with an explanation of any rate
27 changes and the impact of the rate changes on affected agencies.

**OMNIBUS DATA PRACTICES BILL
H.F. 2087 (Chapter 290)**

SUMMARY: This bill is the annual Data Practices Bill that enacts temporary classifications approved by the legislature and classifies various government data as private/nonpublic or confidential/protected nonpublic.

Section	<i>Omnibus Data Practices Bill</i>	Language Page
11	Data Preparation. This section makes technical language changes to a data exchange agreement of wage information with a training service provider.	59
14	Employment and Economic Development Data Coded Elsewhere Subdivision 10. Employment and Training Programs; Data Sharing. This section amends a section of the Data Practices Act that lists statutes outside the act that classify employment and economic development data. Adds references to existing laws that are not currently included in this section.	59

1
2 **OMNIBUS DATA PRACTICES BILL**
3 **H.F. 2087 (Chapter 290)**
4

5 Sec. 11. Minnesota Statutes 2002, section 13.47, subdivision 4, is
6 amended to read:

7 Subd. 4. [DATA PREPARATION.] To produce data required to certify
8 the eligibility of training service providers under ~~section 268.0122,~~
9 ~~subdivision 3, clause (7),~~ the Workforce Investment Act of 1998, United
10 States Code, title 29, section 2801, or other studies required by law, the
11 commissioner of ~~economic security, in consultation with the governor's~~
12 ~~Workforce Development Council,~~ employment and economic development may:

13 ~~(1)~~ enter into a data exchange agreement with a training service
14 provider whereby the commissioner of economic security employment and
15 economic development shall furnish to the provider wage information under
16 section 268.044 on individuals who have received training services from
17 the provider. The provider shall use this wage information to prepare
18 summary data determined necessary by the commissioner ~~in consultation with~~
19 ~~the governor's Workforce Development Council.~~ The provider may use this
20 wage information for conducting studies to improve instruction; ~~or~~

21 ~~(2) if there is no agreement under clause (1), require the training~~
22 ~~service provider to furnish employment and training data determined~~
23 ~~necessary by the commissioner in consultation with the governor's~~
24 ~~Workforce Development Council.~~

25
26 Sec. 14. Minnesota Statutes 2002, section 13.598, as amended by
27 Laws 2003, chapter 128, article 13, section 40, and Laws 2003, First
28 Special Session chapter 4, section 1, is amended to read:

29 13.598 [EMPLOYMENT AND ECONOMIC DEVELOPMENT DATA CODED ELSEWHERE.]

30 Subd. 10. [EMPLOYMENT AND TRAINING PROGRAMS; DATA SHARING.] Data
31 sharing of employment and training program data between the commissioner
32 of employment and economic development, the commissioner of human
33 services, state agency personnel, and other users of the inventory,
34 referral and intake system, is governed by section 268.86, subdivision 10.

**MINNESOTA DEPARTMENT OF HEALTH (MDH) LICENSING AND EMERGENCY HEALTH POWERS BILL
H.F. 2175 (Chapter 279)**

SUMMARY: This bill makes several changes to the Minnesota Department of Health requirements governing various public health occupations that Minnesota State Colleges and Universities provides training for, including speech-language pathology assistants, nurses, alcohol and drug counselors, licensed professional counselors, dental hygienists, and dental assistants.

Section	<i>MDH Licensing Bill</i>	Language Page
ARTICLE 1		
Speech-Language Pathology, Audiology, and Occupational Therapy		
5	Speech-Language Pathology Assistant. This section amends M.S.148.512 by adding subdivision 17a, which defines “speech language pathology assistant.”	65
6	Supervision. This section modifies the definition of “supervision” by adding a speech-language pathology assistant to the list of person who may be supervised.	65
7	Unlicensed Practice Prohibited. This section adds language referring to speech-language pathology assistants practicing without a license.	65
8	Protected Titles and Restrictions on Use. This section prohibits speech-language pathology assistants from practicing or representing themselves as licensed.	65
12	Temporary Licensure. This section changes cross references to temporary licensure provisions for speech-language pathologists.	66
13	Licensure Following Lapse of Licensure Status. This section adds an option to restore licensure status for a speech-language pathology applicant whose license has lapsed. Applicants are required to apply for renewal and submit documentation of completion of 160 hours of supervised practice. Applicants seeking supervised practice must apply for temporary licensure.	66
14	Speech-Language Pathology Assistants. Subdivision 1. Delegation Requirements. This section permits licensed speech-language professionals to delegate duties to assistants who have fulfilled certain requirements.	67

Subdivision 2. Delegated Duties; Prohibitions. This section lists duties that can be delegated to assistants, and duties speech-language pathology assistants are prohibited from performing. It also lists documents a speech-language pathology assistant is required to sign or initial and the documents as assistant is prohibited from signing.

Subdivision 3. Supervision Requirements. This section specifies

the requirements a supervising speech-language pathologist must meet in order to supervise a certified speech-language pathology assistant. It specifies the supervision schedule for speech-language pathology assistants that must be met, and defines “direct supervision.” This section also requires supervising speech-language pathologists to be available to communicate with a speech-language pathology assistant at any time the assistant is in direct contact with a client, and requires supervisors to document activities performed by their assistant. This section lists the documentation that must be included. Supervisors are required to review and co-sign all informal treatment notes signed or initialed by the assistant. This section allows full-time speech-language pathologists to supervise no more than one full-time assistant, or the equivalent of one full-time assistant.

Subdivision 4. Notification. This section requires any agency that intends to utilize the services of a certified speech-language pathology assistant to provide written notification to the client, or the client’s parent or guardian before a certified speech-language pathology assistant performs any duties.

- | | | |
|----|--|----|
| 15 | Number of Contact Hours Required. This section modifies the continuing education requirements for speech-language pathologists by setting a time limit by which professionals must register their continuing education, prorating requirements for licenses issued for less than two years, and prohibiting continuing education hours from being carried over into the next two-year period. | 68 |
| 17 | Grounds for Disciplinary Action by the Commissioner. This section adds failure to properly supervise a speech-language pathology assistant to the list of grounds for discipline. | 69 |
| 19 | Limited License. This section adds a definition for “limited license.” | 70 |
| 25 | Protections.
Subdivision 2. Renewal of Professional Licenses or Certifications. This section provides that renewal of a professional credential by a professional ordered to active military duty is governed by sections 326.55 and 326.56. | 70 |
| 26 | Renewal of Professional Licenses or Certifications. This section provides that renewal of a professional credential by a professional ordered to active military duty is governed by sections 326.55 and 326.56. | 72 |

ARTICLE 4

Board of Nursing

- | | | |
|---|--|----|
| 1 | Licensure by Examination. This section clarifies requirements for licensure by examination by updating and removing obsolete language and adding new requirements. Applicants must: <ul style="list-style-type: none"> ♦ Demonstrate that the applicant has not engaged in conduct | 72 |
|---|--|----|

- warranting disciplinary action;
- ♦ Complete an approved nursing education program; and
 - ♦ Pass an examination
- 3 Certification of Advanced Practice Registered Nurses.** This section prohibits advanced practice registered nurses from practicing as such without current certification or without notifying the board of current certification. A fee is charged for violations and this section provides for calculating the fee. **73**
- 4 Appropriation.** This section appropriates \$24,000 from the special revenue fund for administration of section 3, and identifies a base from which future appropriations may be calculated. **74**

ARTICLE 5

Board of Behavioral Health and Therapy

- 1 Duties of the Board.** This section withdraws the board's authority to establish procedures to assess whether licensees comply with the board's rules and for treatment of impaired practitioners. **74**
- 2 General Requirements.** This section modifies the requirement that applicants for licensure submit a supervision plan by allowing applicants to submit proof of supervised practice. This section also withdraws provisions requiring applicants to provide evidence that applicants will comply with professional conduct rules and that applicants declare areas of professional competencies. **75**
- 3 Fee.** This section establishes applicant fees for licensed professional counseling. **76**
- 4 Continuing Education.** This section modifies continuing education requirements by making a technical change and capping the number of credit hours required. **76**
- 11 Transition Plan.** This section requires the Commissioner of Health in consultation with others, to develop a plan to transfer regulatory authority for alcohol and drug counselors and unlicensed mental health practitioners from the Department of Health to the Board of Behavioral Health and Therapy. **76**
- 12 Effective Date.** Sections 1 to 11 are effective the day following final enactment. **76**

ARTICLE 6

Alcohol and Drug Counselors

- 1 Temporary Permit Requirements.** This section adds an option for the Commissioner to grant a temporary permit if the applicant follows the requirements to renew a lapsed license. **76**
- 2 Continuing Education Requirements for Licensee's First Four Years.** This section clarifies cultural diversity continuing education requirements. **77**
- 3 Course Work.** This section clarifies the continuing education credits a licensee may receive from teaching course work. **77**

ARTICLE 7
Board of Dentistry

- 1 Licensure. 78**
Subdivision 2. Dental Hygienists. This section modifies requirements for licensure as a dental hygienist.
- Subdivision 2a. Registered Dental Assistants. This section modifies requirements for registration as a registered dental assistant.
- Subdivision 4. Licensure by Credentials. This section modifies requirements for licensure by credential.
- Subdivision 6. Display of Name and Certifications. This section modifies credential and name display requirements to require offices in which dentistry is practiced to display the name of each current dentist, dental hygienist, or dental assistant practicing, instead of displaying the name of each credentialed dental professional.
- Subdivision 7. Additional Remedies for Licensure and Registration. This section gives the board discretion to issue additional remedies for deficiencies found for initial or renewal of credentials.
- Subdivision 8. Registration by Credentials. This section outlines the requirements for registration of dental assistants by credential.
- 4 Regulation of Dental Assistants. 80**
This section calls for establishing a regulatory system for dental assistants that recognizes different degrees of practice with the professions. The Board of Dentistry is to submit the proposed regulatory system to the legislature by January 15, 2005.

1
2 **MINNESOTA DEPARTMENT OF HEALTH (MDH) LICENSING AND EMERGENCY**
3 **HEALTH POWERS BILL**
4 **H.F. 2175 (Chapter 279)**

5
6 ARTICLE 1

7 SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, AND OCCUPATIONAL THERAPY

8
9 Sec. 5. Minnesota Statutes 2002, section 148.512, is amended by
10 adding a subdivision to read:

11 Subd. 17a. [SPEECH-LANGUAGE PATHOLOGY ASSISTANT.] "Speech-language
12 pathology assistant" means a person who provides speech-language pathology
13 services under the supervision of a licensed speech-language pathologist
14 in accordance with section 148.5192.

15
16 Sec. 6. Minnesota Statutes 2002, section 148.512, subdivision 19,
17 is amended to read:

18 Subd. 19. [SUPERVISION.] "Supervision" means the direct or
19 indirect evaluation or direction of:

- 20 (1) a practitioner of speech-language pathology or audiology; (2) a
21 person performing a function of supervised clinical
22 training as a student of speech-language pathology or audiology; ~~or~~
23 (3) a person performing a function of supervised postgraduate
24 clinical experience in speech-language pathology or audiology; or
25 (4) a speech-language pathology assistant in accordance with
26 section 148.5192.

27
28 Sec. 7. Minnesota Statutes 2003 Supplement, section 148.513,
29 subdivision 1, is amended to read:

30 Subdivision 1. [UNLICENSED PRACTICE PROHIBITED.] A person must not
31 engage in the practice of speech-language pathology or audiology unless
32 the person is licensed as a speech-language pathologist or an audiologist
33 under sections 148.511 to 148.5196 or is practicing as a speech-language
34 pathology assistant in accordance with section 148.5192. For purposes of
35 this subdivision, a speech-language pathology assistant's duties are
36 limited to the duties described in accordance with section 148.5192,
37 subdivision 2.

38
39 Sec. 8. Minnesota Statutes 2003 Supplement, section 148.513,
40 subdivision 2, is amended to read:

41 Subd. 2. [PROTECTED TITLES AND RESTRICTIONS ON USE.]

42 (a) Notwithstanding paragraph (b), the use of the following terms
43 or initials which represent the following terms, alone or in combination
44 with any word or words, by any person to form an occupational title is
45 prohibited unless that person is licensed under sections 148.511 to
46 148.5196:

- 47 (1) speech-language;
48 (2) speech-language pathologist, S, SP, or SLP;
49 (3) speech pathologist;
50 (4) language pathologist;
51 (5) audiologist, A, or AUD;
52 (6) speech therapist;
53 (7) speech clinician;
54 (8) speech correctionist;
55 (9) language therapist;
56 (10) voice therapist;
57 (11) voice pathologist;
58 (12) logopedist;
59 (13) communicologist;

- 1 (14) aphasiologist;
- 2 (15) phoniatriest;
- 3 (16) audiometrist;
- 4 (17) audioprosthologist;
- 5 (18) hearing therapist;
- 6 (19) hearing clinician; or
- 7 (20) hearing aid audiologist.

8 Use of the term "Minnesota licensed" in conjunction with the titles
 9 protected under this ~~section~~ paragraph by any person is prohibited unless
 10 that person is licensed under sections 148.511 to 148.5196.

11 (b) A speech-language pathology assistant practicing under section
 12 148.5192 must not represent, indicate, or imply to the public that the
 13 assistant is a licensed speech-language pathologist and shall only utilize
 14 one of the following titles: "speech-language pathology assistant," "SLP
 15 assistant," or "SLP asst."

17 Sec. 12. Minnesota Statutes 2003 Supplement, section 148.5175, is
 18 amended to read: 148.5175 [TEMPORARY LICENSURE.]

19 (a) The commissioner shall issue temporary licensure as a speech-
 20 language pathologist, an audiologist, or both, to an applicant who has
 21 applied for licensure under section 148.515, 148.516, 148.517, or 148.518,
 22 ~~subdivisions 1 and 2,~~ and who:

23 (1) submits a signed and dated affidavit stating that the applicant
 24 is not the subject of a disciplinary action or past disciplinary action in
 25 this or another jurisdiction and is not disqualified on the basis of
 26 section 148.5195, subdivision 3; and

27 (2) either:

28 (i) provides a copy of a current credential as a speech-language
 29 pathologist, an audiologist, or both, held in the District of Columbia or
 30 a state or territory of the United States; or

31 (ii) provides a copy of a current certificate of clinical
 32 competence issued by the American Speech-Language-Hearing Association or
 33 board certification in audiology by the American Board of Audiology.

34 (b) A temporary license issued to a person under this subdivision
 35 expires 90 days after it is issued or on the date the commissioner grants
 36 or denies licensure, whichever occurs first.

37 (c) Upon application, a temporary license shall be renewed once to
 38 a person who is able to demonstrate good cause for failure to meet the
 39 requirements for licensure within the initial temporary licensure period
 40 and who is not the subject of a disciplinary action or disqualified on the
 41 basis of section 148.5195, subdivision 3.

43 Sec. 13. Minnesota Statutes 2003 Supplement, section 148.518, is
 44 amended to read: 148.518 [LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.]
 45 For an applicant whose licensure status has lapsed, the applicant must:

46 (1) apply for licensure renewal according to section 148.5191 and
 47 document compliance with the continuing education requirements of section
 48 148.5193 since the applicant's license lapsed;

49 (2) fulfill the requirements of section 148.517; ~~or~~

50 (3) apply for renewal according to section 148.5191, provide
 51 evidence to the commissioner that the applicant holds a current and
 52 unrestricted credential for the practice of speech-language pathology from
 53 the Minnesota Board of Teaching or for the practice of speech-language
 54 pathology or audiology in another jurisdiction that has requirements
 55 equivalent to or higher than those in effect for Minnesota, and provide
 56 evidence of compliance with Minnesota Board of Teaching or that
 57 jurisdiction's continuing education requirements; or

58 (4) apply for renewal according to section 148.5191 and submit
 59 verified documentation of successful completion of 160 hours of supervised
 60 practice approved by the commissioner. To participate in a supervised

1 practice, the applicant shall first apply and obtain temporary licensing
2 according to section 148.5161.

3
4 Sec. 14. [148.5192] [SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.]

5 Subdivision 1. [DELEGATION REQUIREMENTS.] A licensed speech-
6 language pathologist may delegate duties to a speech-language pathology
7 assistant in accordance with this section. Duties may only be delegated
8 to an individual who has documented with a transcript from an educational
9 institution satisfactory completion of either:

10 (1) an associate degree from a speech-language pathology assistant
11 program that is accredited by the Higher Learning Commission of the North
12 Central Association of Colleges or its equivalent as approved by the
13 commissioner; or

14 (2) a bachelor's degree in the discipline of communication sciences
15 or disorders with additional transcript credit in the area of instruction
16 in assistant-level service delivery practices and completion of at least
17 100 hours of supervised field work experience as a speech-language
18 pathology assistant student.

19 Subd. 2. [DELEGATED DUTIES; PROHIBITIONS.]

20 (a) A speech-language pathology assistant may perform only those
21 duties delegated by a licensed speech-language pathologist and must be
22 limited to duties within the training and experience of the speech-
23 language pathology assistant.

24 (b) Duties may include the following as delegated by the
25 supervising speech-language pathologist:

26 (1) assist with speech language and hearing screenings;

27 (2) implement documented treatment plans or protocols developed by
28 the supervising speech-language pathologist;

29 (3) document client performance;

30 (4) assist with assessments of clients;

31 (5) assist with preparing materials and scheduling activities as
32 directed;

33 (6) perform checks and maintenance of equipment;

34 (7) support the supervising speech-language pathologist in research
35 projects, in-service training, and public relations programs; and

36 (8) collect data for quality improvement.

37 (c) A speech-language pathology assistant may not:

38 (1) perform standardized or nonstandardized diagnostic tests,
39 perform formal or informal evaluations, or interpret test results;

40 (2) screen or diagnose clients for feeding or swallowing disorders,
41 including using a checklist or tabulating results of feeding or swallowing
42 evaluations, or demonstrate swallowing strategies or precautions to
43 clients or the clients' families;

44 (3) participate in parent conferences, case conferences, or any
45 interdisciplinary team without the presence of the supervising speech-
46 language pathologist or other licensed speech-language pathologist as
47 authorized by the supervising speech-language pathologist;

48 (4) provide client or family counseling or consult with the client
49 or the family regarding the client status or service;

50 (5) write, develop, or modify a client's individualized treatment
51 plan or individualized education program;

52 (6) select clients for service;

53 (7) discharge clients from service;

54 (8) disclose clinical or confidential information either orally or
55 in writing to anyone other than the supervising speech-language
56 pathologist; or

57 (9) make referrals for additional services.

58 (d) A speech-language pathology assistant must not sign any formal
59 documents, including treatment plans, education plans, reimbursement

1 forms, or reports. The speech-language pathology assistant must sign or
2 initial all treatment notes written by the assistant.

3 Subd. 3. [SUPERVISION REQUIREMENTS.]

4 (a) A supervising speech-language pathologist shall authorize and
5 accept full responsibility for the performance, practice, and activity of
6 a speech-language pathology assistant.

7 (b) A supervising speech-language pathologist must:

8 (1) be licensed under sections 148.511 to 148.5196;

9 (2) hold a certificate of clinical competence from the American
10 Speech-Language-Hearing Association or its equivalent as approved by the
11 commissioner; and

12 (3) have completed at least one continuing education unit in
13 supervision.

14 (c) The supervision of a speech-language pathology assistant shall
15 be maintained on the following schedule:

16 (1) for the first 90 work days, within a 40-hour work week, 30
17 percent of the work performed by the speech-language pathology assistant
18 must be supervised and at least 20 percent of the work performed must be
19 under direct supervision; and

20 (2) for the work period after the initial 90-day period, within a
21 40-hour work week, 20 percent of the work performed must be supervised and
22 at least ten percent of the work performed must be under direct
23 supervision.

24 (d) For purposes of this section, "direct supervision" means on-
25 site, in-view observation and guidance by the supervising speech-language
26 pathologist during the performance of a delegated duty. The supervision
27 requirements described in this section are minimum requirements.
28 Additional supervision requirements may be imposed at the discretion of
29 the supervising speech-language pathologist.

30 (e) A supervising speech-language pathologist must be available to
31 communicate with a speech-language pathology assistant at any time the
32 assistant is in direct contact with a client.

33 (f) A supervising speech-language pathologist must document
34 activities performed by the assistant that are directly supervised by the
35 supervising speech-language pathologist. At a minimum, the documentation
36 must include:

37 (1) information regarding the quality of the speech-language
38 pathology assistant's performance of the delegated duties; and

39 (2) verification that any delegated clinical activity was limited
40 to duties authorized to be performed by the speech-language pathology
41 assistant under this section.

42 (g) A supervising speech-language pathologist must review and
43 cosign all informal treatment notes signed or initialed by the speech-
44 language pathology assistant.

45 (h) A full-time, speech-language pathologist may supervise no more
46 than one full-time, speech-language pathology assistant or the equivalent
47 of one full-time assistant.

48 Subd. 4. [NOTIFICATION.] Any agency or clinic that intends to
49 utilize the services of a speech-language pathology assistant must provide
50 written notification to the client or, if the client is younger than 18
51 years old, to the client's parent or guardian before a speech-language
52 pathology assistant may perform any of the duties described in this
53 section.

54
55 Sec. 15. Minnesota Statutes 2003 Supplement, section 148.5193,
56 subdivision 1, is amended to read:

57 Subdivision 1. [NUMBER OF CONTACT HOURS REQUIRED.]

58 (a) An applicant for licensure renewal must meet the requirements
59 for continuing education stipulated by the American Speech-Language-

1 Hearing Association or the American Board of Audiology, or satisfy the
2 requirements described in paragraphs (b) to (e).

3 (b) Within one month following expiration of a license, an
4 applicant for licensure renewal as either a speech-language pathologist or
5 an audiologist must provide evidence to the commissioner of a minimum of
6 30 contact hours of continuing education ~~offered by a continuing education~~
7 ~~sponsor~~ obtained within the two years immediately preceding licensure
8 ~~renewal~~ expiration. A minimum of 20 contact hours of continuing education
9 must be directly related to the licensee's area of licensure. Ten contact
10 hours of continuing education may be in areas generally related to the
11 licensee's area of licensure. Licensees who are issued licenses for a
12 period of less than two years shall prorate the number of contact hours
13 required for licensure renewal based on the number of months licensed
14 during the biennial licensure period. Licensees shall receive contact
15 hours for continuing education activities only for the biennial licensure
16 period in which the continuing education activity was performed.

17 (c) An applicant for licensure renewal as both a speech-language
18 pathologist and an audiologist must attest to and document completion of a
19 minimum of 36 contact hours of continuing education offered by a
20 continuing education sponsor within the two years immediately preceding
21 licensure renewal. A minimum of 15 contact hours must be received in the
22 area of speech-language pathology and a minimum of 15 contact hours must
23 be received in the area of audiology. Six contact hours of continuing
24 education may be in areas generally related to the licensee's areas of
25 licensure. Licensees who are issued licenses for a period of less than
26 two years shall prorate the number of contact hours required for licensure
27 renewal based on the number of months licensed during the biennial
28 licensure period. Licensees shall receive contact hours for continuing
29 education activities only for the biennial licensure period in which the
30 continuing education activity was performed.

31 (d) If the licensee is licensed by the Board of Teaching:

32 (1) activities that are approved in the categories of Minnesota
33 Rules, part 8700.1000, subpart 3, items A and B, and that relate to
34 speech-language pathology, shall be considered:

- 35 (i) offered by a sponsor of continuing education; and
- 36 (ii) directly related to speech-language pathology;

37 (2) activities that are approved in the categories of Minnesota
38 Rules, part 8700.1000, subpart 3, shall be considered:

- 39 (i) offered by a sponsor of continuing education; and
- 40 (ii) generally related to speech-language pathology; and

41 (3) one clock hour as defined in Minnesota Rules, part 8700.1000,
42 subpart 1, is equivalent to 1.0 contact hours of continuing education.

43 (e) Contact hours ~~cannot~~ may not be accumulated in advance and
44 transferred to a future continuing education period.

45
46 Sec. 17. Minnesota Statutes 2003 Supplement, section 148.5195,
47 subdivision 3, is amended to read:

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

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

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

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

58 (4) violated sections 148.511 to 148.5196;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49
50 Sec. 19. Minnesota Statutes 2002, section 148.6402, is amended by
51 adding a subdivision to read:

52 Subd. 22a. [LIMITED LICENSE.] "Limited license" means a license
53 issued according to section 148.6425, subdivision 3, paragraph (c), to
54 persons who have allowed their license to lapse for four years or more and
55 who choose a supervised practice as the method for renewing their license
56 status.

57
58 Sec. 25. Minnesota Statutes 2002, section 192.502, is amended to
59 read: 192.502 [PROTECTIONS.]

60 Subdivision 1. [POSTSECONDARY STUDENTS.]

1 (a) A member of the Minnesota National Guard or any other military
2 reserve component who is a student at a postsecondary education
3 institution and who is called or ordered to state active service in the
4 Minnesota National Guard, as defined in section 190.05, subdivision 5, or
5 who is called or ordered to federal active military service has the
6 following rights:

7 (1) with regard to courses in which the person is enrolled, the
8 person may:

9 (i) withdraw from one or more courses for which tuition and fees
10 have been paid that are attributable to the courses. The tuition and fees
11 must be credited to the person's account at the postsecondary institution.
12 Any refunds are subject to the requirements of the state or federal
13 financial aid programs of origination. In such a case, the student must
14 not receive credit for the courses and must not receive a failing grade,
15 an incomplete, or other negative annotation on the student's record, and
16 the student's grade point average must not be altered or affected in any
17 manner because of action under this item;

18 (ii) be given a grade of incomplete and be allowed to complete the
19 course upon release from active duty under the postsecondary institution's
20 standard practice for completion of incompletes; or

21 (iii) continue and complete the course for full credit. Class
22 sessions the student misses due to performance of state or federal active
23 military service must be counted as excused absences and must not be used
24 in any way to adversely impact the student's grade or standing in the
25 class. Any student who selects this option is not, however, automatically
26 excused from completing assignments due during the period the student is
27 performing state or federal active military service. A letter grade or a
28 grade of pass must only be awarded if, in the opinion of the faculty
29 member teaching the course, the student has completed sufficient work and
30 has demonstrated sufficient progress toward meeting course requirements to
31 justify the grade;

32 (2) to receive a refund of amounts paid for room, board, and fees
33 attributable to the time period during which the student was serving in
34 state or federal active military service and did not use the facilities or
35 services for which the amounts were paid. Any refund of room, board, and
36 fees is subject to the requirements of the state or federal financial aid
37 programs of origination; and

38 (3) if the student chooses to withdraw, the student has the right
39 to be readmitted and reenrolled as a student at the postsecondary
40 education institution, without penalty or redetermination of admission
41 eligibility, within one year following release from the state or federal
42 active military service.

43 (b) The protections in this section may be invoked as follows:

44 (1) the person, or an appropriate officer from the military
45 organization in which the person will be serving, must give advance verbal
46 or written notice that the person is being called or ordered to qualifying
47 service;

48 (2) advance notice is not required if the giving of notice is
49 precluded by military necessity or, under all the relevant circumstances,
50 the giving of notice is impossible or unreasonable; and

51 (3) upon written request from the postsecondary institution, the
52 person must provide written verification of service.

53 (c) This section provides minimum protections for students. Nothing
54 in this section prevents postsecondary institutions from providing
55 additional options or protections to students who are called or ordered to
56 state or federal active military service.

57 Subd. 2. [RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS.] The
58 renewal of a license or certificate of registration for a member of the
59 Minnesota National Guard or other military reserves who has been ordered
60 to active military service and who is required by law to be licensed or

1 registered in order to carry on or practice a health or other trade,
 2 employment, occupation, or profession in the state is governed under
 3 sections 326.55 and 326.56.

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

6
 7 Sec. 26. [197.65] [RENEWAL OF PROFESSIONAL LICENSES OR
 8 CERTIFICATIONS.] The renewal of a license or certificate of registration
 9 for a person who is serving in or has recently been discharged from active
 10 military service and who is required by law to be licensed or registered
 11 in order to carry on or practice a health or other trade, employment,
 12 occupation, or profession in the state is governed under sections 326.55
 13 and 326.56.

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

16
 17 ARTICLE 4
 18 BOARD OF NURSING

19
 20 Section 1. Minnesota Statutes 2002, section 148.211, subdivision
 21 1, is amended to read:

22 Subdivision 1. [LICENSURE BY EXAMINATION.]

23 (a) An applicant for a license to practice as a registered nurse or
 24 licensed practical nurse shall apply to the board for a license by
 25 examination on forms prescribed by the board and pay a fee in an amount
 26 determined by ~~rule~~ statute. An applicant applying for reexamination shall
 27 pay a fee in an amount determined by ~~rule~~ law. In no case may fees be
 28 refunded. Before being scheduled for examination, the applicant shall
 29 provide written evidence verified by oath that the applicant

30 ~~(1) has not engaged in conduct warranting disciplinary action as~~
 31 ~~set forth in section 148.261;~~

32 ~~(2) meets secondary education requirements as determined by the~~
 33 ~~board and other preliminary qualification requirements the board may~~
 34 ~~prescribe by rule; and~~

35 ~~(3) has completed a course of study in a nursing program approved~~
 36 ~~by the board, another United States nursing board, or a Canadian province.~~
 37 An applicant who graduates from a nursing program in another country,
 38 except Canada, must also successfully complete the Commission on Graduates
 39 of Foreign Nursing Schools Qualifying Examination. The nursing program
 40 must be approved for the preparation of applicants for the type of license
 41 for which the application has been submitted. The applicant must pass a
 42 written examination in the subjects the board may determine. Written
 43 examination includes both paper and pencil examinations and examinations
 44 administered with a computer and related technology. Each written
 45 examination may be supplemented by an oral or practical examination.

46 (b) The applicant must satisfy the following requirements for
 47 licensure by examination:

48 (1) present evidence the applicant has not engaged in conduct
 49 warranting disciplinary action under section 148.261;

50 (2) present evidence of completion of a nursing education program
 51 approved by the board, another United States nursing board, or a Canadian
 52 province, which prepared the applicant for the type of license for which
 53 the application has been submitted; and

54 (3) pass a national nurse licensure written examination. "Written
 55 examination" includes paper and pencil examinations and examinations
 56 administered with a computer and related technology and may include
 57 supplemental oral or practical examinations approved by the board.

58 (c) An applicant who graduated from an approved nursing education
 59 program in Canada and was licensed in Canada or another United States
 60 jurisdiction, without passing the national nurse licensure examination,

1 must also submit a verification of licensure from the original Canadian
2 licensure authority and from the United States jurisdiction.

3 (d) An applicant who graduated from a nursing program in country
4 other than the United States or Canada must also satisfy the following
5 requirements:

6 (1) present verification of graduation from a nursing education
7 program which prepared the applicant for the type of license for which the
8 application has been submitted and is determined to be equivalent to the
9 education required in the same type of nursing education programs in the
10 United States as evaluated by a credentials evaluation service acceptable
11 to the board. The credentials evaluation service must submit the
12 evaluation and verification directly to the board;

13 (2) demonstrate successful completion of coursework to resolve
14 identified nursing education deficiencies; and

15 (3) pass examinations acceptable to the board that test written and
16 spoken English, unless the applicant graduated from a nursing education
17 program conducted in English and located in an English-speaking country.
18 The results of the examinations must be submitted directly to the board
19 from the testing service.

20 (e) An applicant failing to pass the examination may apply for
21 reexamination. Upon submission by the applicant of an affidavit of
22 graduation or transcript from an approved nursing program as well as proof
23 that the applicant has passed the examination, paid the required fees, and

24 (f) When the applicant has met all other requirements stated in
25 this subdivision, the board shall issue a license to the applicant. The
26 board may issue a license with conditions and limitations if it considers
27 it necessary to protect the public.

28
29 Sec. 3. Minnesota Statutes 2002, section 148.284, is amended to
30 read: 148.284 [CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.]

31 (a) No person shall practice advanced practice registered nursing
32 or use any title, abbreviation, or other designation tending to imply that
33 the person is an advanced practice registered nurse, clinical nurse
34 specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless
35 the person is certified for such advanced practice registered nursing by a
36 national nurse certification organization.

37 (b) ~~Paragraph~~ Paragraphs (a) ~~does~~ and (e) do not apply to an
38 advanced practice registered nurse who is within six months after
39 completion of an advanced practice registered nurse course of study and is
40 awaiting certification, provided that the person has not previously failed
41 the certification examination.

42 (c) An advanced practice registered nurse who has completed a
43 formal course of study as an advanced practice registered nurse and has
44 been certified by a national nurse certification organization prior to
45 January 1, 1999, may continue to practice in the field of nursing in which
46 the advanced practice registered nurse is practicing as of July 1, 1999,
47 regardless of the type of certification held if the advanced practice
48 registered nurse is not eligible for the proper certification.

49 (d) Prior to July 1, 2007, a clinical nurse specialist may petition
50 the board for waiver from the certification requirement in paragraph (a)
51 if the clinical nurse specialist is academically prepared as a clinical
52 nurse specialist in a specialty area for which there is no certification
53 within the clinical nurse specialist role and specialty or a related
54 specialty. The board may determine that an available certification as a
55 clinical nurse specialist in a related specialty must be obtained in lieu
56 of the specific specialty or subspecialty. The petitioner must be
57 academically prepared as a clinical nurse specialist in a specific field
58 of clinical nurse specialist practice with a master's degree in nursing
59 that included clinical experience in the clinical specialty and must have
60 1,000 hours of supervised clinical experience in the clinical specialty

1 for which the individual was academically prepared with a minimum of 500
2 hours of supervised clinical practice after graduation. The board may
3 grant a nonrenewable permit for no longer than 12 months for the
4 supervised postgraduate clinical experience. The board may renew the
5 waiver for three-year periods provided the clinical nurse specialist
6 continues to be ineligible for certification as a clinical nurse
7 specialist by an organization acceptable to the board.

8 (e) An advanced practice registered nurse who practices advanced
9 practice registered nursing without current certification or current
10 waiver of certification as a clinical nurse specialist, nurse midwife,
11 nurse practitioner, or registered nurse anesthetist, or practices with
12 current certification but fails to notify the board of current
13 certification, shall pay a penalty fee of \$200 for the first month or part
14 of a month and an additional \$100 for each subsequent month or parts of
15 months of practice. The amount of the penalty fee shall be calculated
16 from the first day the advanced practice registered nurse practiced
17 without current advanced practice registered nurse certification or
18 current waiver of certification to the date of last practice or from the
19 first day the advanced practice registered nurse practiced without the
20 current status on file with the board until the day the current
21 certification is filed with the board.

22
23 Sec. 4. [APPROPRIATION.] \$24,000 is appropriated in fiscal year
24 2005 from the state government special revenue fund to the Board of
25 Nursing for the purpose of administering this article. The base for this
26 appropriation in fiscal year 2006 and after is \$4,000. These amounts are
27 added to appropriations in Laws 2003, First Special Session chapter 14,
28 article 13C, section 5.

30 ARTICLE 5

31 BOARD OF BEHAVIORAL HEALTH AND THERAPY

32
33 Section 1. Minnesota Statutes 2003 Supplement, section 148B.52, is
34 amended to read: 148B.52 [DUTIES OF THE BOARD.]

35 (a) The Board of Behavioral Health and Therapy shall:

36 (1) establish by rule appropriate techniques, including
37 examinations and other methods, for determining whether applicants and
38 licensees are qualified under sections 148B.50 to 148B.593;

39 (2) establish by rule standards for professional conduct, including
40 adoption of a Code of Professional Ethics and requirements for continuing
41 education and supervision;

42 (3) issue licenses to individuals qualified under sections 148B.50
43 to 148B.593;

44 (4) establish by rule standards for initial education including
45 coursework for licensure and content of professional education;

46 ~~(5) establish by rule procedures, including a standard disciplinary~~
47 ~~process, to assess whether individuals licensed as licensed professional~~
48 ~~counselors comply with the board's rules;~~

49 ~~(6) establish, maintain, and publish annually a register of current~~
50 ~~licensees and approved supervisors;~~

51 ~~(7) (6) establish initial and renewal application and examination~~
52 ~~fees sufficient to cover operating expenses of the board and its agents;~~

53 ~~(8) (7) educate the public about the existence and content of the~~
54 ~~laws and rules for licensed professional counselors to enable consumers to~~
55 ~~file complaints against licensees who may have violated the rules;~~

56 ~~(9) establish rules and regulations pertaining to treatment for~~
57 ~~impaired practitioners; and~~

58 ~~(10) (8) periodically evaluate its rules in order to refine the~~
59 ~~standards for licensing professional counselors and to improve the methods~~
60 ~~used to enforce the board's standards.~~

1 (b) The board may appoint a professional discipline committee for
2 each occupational licensure regulated by the board, and may appoint a
3 board member as chair. The professional discipline committee shall
4 consist of five members representative of the licensed occupation and
5 shall provide recommendations to the board with regard to rule techniques,
6 standards, procedures, and related issues specific to the licensed
7 occupation.

8
9 Sec. 2. Minnesota Statutes 2003 Supplement, section 148B.53,
10 subdivision 1, is amended to read:

11 Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed as a
12 licensed professional counselor (LPC), an applicant must provide evidence
13 satisfactory to the board that the applicant:

- 14 (1) is at least 18 years of age;
15 (2) is of good moral character;

16 (3) has completed a master's degree program in counseling that
17 includes a minimum of 48 semester hours and a supervised field experience
18 of not fewer than 700 hours that is counseling in nature;

19 (4) has submitted to the board a plan for supervision during the
20 first 2,000 hours of professional practice or has submitted proof of
21 supervised professional practice that is acceptable to the board; and

22 (5) has demonstrated competence in professional counseling by
23 passing the National Counseling Exam (NCE) administered by the National
24 Board for Certified Counselors, Inc. (NBCC) including obtaining a passing
25 score on the examination accepted by the board based on the determinations
26 made by the NBCC and oral and situational examinations if prescribed by
27 the board;

28 ~~(6) will conduct all professional activities as a licensed~~
29 ~~professional counselor in accordance with standards for professional~~
30 ~~conduct established by the rules of the board; and~~

31 ~~(7) has declared to the board and agrees to continue to declare~~
32 ~~areas of professional competencies through a statement of professional~~
33 ~~disclosure, describing the intended use of the license and the population~~
34 ~~to be served.~~

35 (b) The degree described in paragraph (a), clause (3), must be from
36 a counseling program recognized by the Council for Accreditation of
37 Counseling and Related Education Programs (CACREP) or from an institution
38 of higher education that is accredited by a regional accrediting
39 organization recognized by the Council for Higher Education Accreditation
40 (CHEA). Specific academic course content and training must meet standards
41 established by the CACREP, including course work in the following subject
42 areas:

43 (1) the helping relationship, including counseling theory and
44 practice;

45 (2) human growth and development;

46 (3) lifestyle and career development;

47 (4) group dynamics, processes, counseling, and consulting;

48 (5) assessment and appraisal;

49 (6) social and cultural foundations, including multicultural
50 issues;

51 (7) principles of etiology, treatment planning, and prevention of
52 mental and emotional disorders and dysfunctional behavior;

53 (8) family counseling and therapy;

54 (9) research and evaluation; and

55 (10) professional counseling orientation and ethics.

56 (c) To be licensed as a professional counselor, a psychological
57 practitioner licensed under section 148.908 need only show evidence of
58 licensure under that section and is not required to comply with paragraph
59 (a) or (b).
60

1 certification body or a certification or licensing body from another
2 state, United States territory, or federally recognized tribal authority;

3 (ii) submits verification of the completion of at least 64 semester
4 credits, including 270 clock hours or 18 semester credits of formal
5 classroom education in alcohol and drug counseling and at least 880 clock
6 hours of alcohol and drug counseling practicum from an accredited school
7 or educational program; ~~or~~

8 (iii) applies to renew a lapsed license according to the
9 requirements of section 148C.055, subdivision 3, clauses (1) and (2), or
10 section 148C.055, subdivision 4, clauses (1) and (2); or

11 (iv) meets the requirements of section 148C.11, subdivision 6,
12 clauses (1), (2), and (5);

13 (2) applies, in writing, on an application form provided by the
14 commissioner, which includes the nonrefundable temporary permit fee as
15 specified in section 148C.12 and an affirmation by the person's
16 supervisor, as defined in paragraph (c), clause (1), which is signed and
17 dated by the person and the person's supervisor; and

18 (3) has not been disqualified to practice temporarily on the basis
19 of a background investigation under section 148C.09, subdivision 1a.

20 (b) The commissioner must notify the person in writing within 90
21 days from the date the completed application and all required information
22 is received by the commissioner whether the person is qualified to
23 practice under this subdivision.

24 (c) A person practicing under this subdivision:

25 (1) may practice under tribal jurisdiction or under the direct
26 supervision of a person who is licensed under this chapter;

27 (2) is subject to the Rules of Professional Conduct set by rule;
28 and

29 (3) is not subject to the continuing education requirements of
30 section 148C.075.

31 (d) A person practicing under this subdivision must use the title
32 or description stating or implying that the person is a trainee engaged in
33 the practice of alcohol and drug counseling.

34 (e) A person practicing under this subdivision must annually submit
35 a renewal application on forms provided by the commissioner with the
36 renewal fee required in section 148C.12, subdivision 3, and the
37 commissioner may renew the temporary permit if the trainee meets the
38 requirements of this subdivision. A trainee may renew a practice permit
39 no more than five times.

40 (f) A temporary permit expires if not renewed, upon a change of
41 employment of the trainee or upon a change in supervision, or upon the
42 granting or denial by the commissioner of a license.

43
44 Sec. 2. Minnesota Statutes 2003 Supplement, section 148C.075,
45 subdivision 2, is amended to read:

46 Subd. 2. [CONTINUING EDUCATION REQUIREMENTS FOR LICENSEE'S
47 FIRST FOUR YEARS.] A licensee must, as part of meeting the clock hour
48 requirement of this section, obtain and document 18 hours of cultural
49 diversity training within the first four years after the licensee's
50 initial license effective date according to the commissioner's reporting
51 schedule. Cultural diversity training includes gaining knowledge in areas
52 described in Minnesota Rules, part 4747.1100, subpart 2, and in identified
53 population groups defined in Minnesota Rules, part 4747.0030, subpart 20.
54

55 Sec. 3. Minnesota Statutes 2003 Supplement, section 148C.075, is
56 amended by adding a subdivision to read:

57 Subd. 5. [COURSE WORK.] A licensee may obtain a maximum of six
58 clock hours in any two-year continuing education period for teaching
59 course work in an accredited school or educational program that meets the
60 requirements of section 148C.04, subdivision 5a. A licensee may earn a

1 maximum of two clock hours as preparation time for each clock hour of
2 presentation time. Clock hours may be claimed only once per course in any
3 two-year continuing education period. The licensee shall maintain a
4 course schedule or brochure for audit.

ARTICLE 7

BOARD OF DENTISTRY

9 Section 1. Minnesota Statutes 2002, section 150A.06, as amended by
10 Laws 2003, First Special Session chapter 5, sections 1, 2, and 3, is
11 amended to read: 150A.06 [LICENSURE.]

12 Subd. 2. [DENTAL HYGIENISTS.] A person of good moral character ~~not~~
13 ~~already a licensed dental hygienist of this state, who has graduated from~~
14 ~~a dental hygiene program established in an institution that is accredited~~
15 ~~by an accrediting agency recognized by the United States Department of~~
16 ~~Education to offer college-level programs accredited by the Commission on~~
17 ~~Dental Accreditation of the American Dental Association and established in~~
18 ~~an institution accredited by an agency recognized by the United States~~
19 ~~Department of Education to offer college-level programs, may apply for~~
20 ~~licensure. The dental hygiene program must provide a minimum of two~~
21 ~~academic years of dental hygiene curriculum and be accredited by the~~
22 ~~American Dental Association Commission on Dental Accreditation education.~~
23 The applicant must submit an application and fee as prescribed by the
24 board and a diploma or certificate of dental hygiene. Prior to being
25 licensed, the applicant must pass the National Board of Dental Hygiene
26 examination and a board approved examination designed to determine the
27 applicant's clinical competency. In the case of examinations conducted
28 pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the
29 examination before applying to the board for licensure. The applicant
30 must also pass an examination testing the applicant's knowledge of the
31 laws of Minnesota relating to the practice of dentistry and of the rules
32 of the board. An applicant is ineligible to retake the clinical
33 examination required by the board after failing it twice until further
34 education and training are obtained as specified by ~~the~~ board ~~by~~ rule. A
35 separate, nonrefundable fee may be charged for each time a person applies.
36 An applicant who passes the examination in compliance with subdivision 2b,
37 abides by professional ethical conduct requirements, and meets all the
38 other requirements of the board shall be licensed as a dental hygienist
39 ~~and supplied with a license by the board.~~

40 Subd. 2a. [REGISTERED DENTAL ASSISTANT.] A person of good moral
41 character, who has ~~submitted~~ graduated from a dental assisting program
42 accredited by the Commission on Dental Accreditation of the American
43 Dental Association, may apply for registration. The applicant must submit
44 an application and fee as prescribed by the board and the diploma or
45 equivalent awarded to the person by a training school for certificate of
46 dental assistants or its equivalent approved by the board, may be examined
47 by the board or by an agency pursuant to section 150A.03, subdivision 1,
48 in a manner to test the applicant's fitness to perform as a registered
49 dental assistant assisting. In the case of examinations conducted
50 pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the
51 examination before applying to the board for registration. The
52 examination shall include an examination of the applicant's knowledge of
53 the laws of Minnesota relating to dentistry and the rules of the board.
54 An applicant is ineligible to retake the ~~clinical~~ registration examination
55 required by the board after failing it twice until further education and
56 training are obtained as specified by ~~the~~ board ~~by~~ rule. A separate,
57 nonrefundable fee may be charged for each time a person applies. An
58 applicant who passes the examination in compliance with subdivision 2b,
59 abides by professional ethical conduct requirements, and meets all the
60 other requirements of the board shall be registered as a dental assistant.

1 The examination fee set by the board in rule is the application fee until
2 the board amends, repeals, or otherwise changes the rules pursuant to
3 chapter 14.

4 Subd. 4. [LICENSURE BY CREDENTIALS.] (a) Any person who is
5 lawfully practicing dentistry or dental hygiene in another state or
6 Canadian province having and maintaining a standard of examination for
7 licensure and of laws regulating the practice within that state or
8 Canadian province, substantially equivalent to Minnesota's, as determined
9 by the board, who is a reputable dentist or dental hygienist of good moral
10 character, and who deposits, in person, with the Board of Dentistry a
11 certificate from the board of dentistry of the state or Canadian province
12 in which the applicant is licensed, certifying to the fact of licensure
13 and that the applicant is of good moral character and professional
14 attainments, shall, upon payment of the fee established by the board, be
15 interviewed by the board. The interview shall consist of assessing the
16 applicant's knowledge of dental subjects. If the applicant does not
17 demonstrate the minimum knowledge in dental subjects required for
18 licensure under subdivisions 1 and 2, the application shall be denied.
19 When denying a license, the board may notify the applicant of any specific
20 course that the applicant could take which, if passed, would qualify the
21 applicant for licensure. The denial shall not prohibit the applicant from
22 applying for licensure under subdivisions 1 and 2. If the applicant
23 demonstrates the minimum knowledge in dental subjects required for
24 licensure under subdivisions 1 and 2 and meets the other requirements of
25 this subdivision, a license shall be granted to practice in this state, if
26 the applicant passes an examination on the laws of Minnesota relating to
27 dentistry and the rules of the Board of Dentistry. dentist or dental
28 hygienist may, upon application and payment of a fee established by the
29 board, apply for licensure based on the applicant's performance record in
30 lieu of passing an examination approved by the board according to section
31 150A.03, subdivision 1, and be interviewed by the board to determine if
32 the applicant:

33 (1) has been in active practice at least 2,000 hours within 36
34 months of the application date, or passed a board-approved re-entry
35 program within 36 months of the application date;

36 (2) currently has a license in another state or Canadian province
37 and is not subject to any pending or final disciplinary action, or if not
38 currently licensed, previously had a license in another state or Canadian
39 province in good standing that was not subject to any final or pending
40 disciplinary action at the time of surrender;

41 (3) is of good moral character and abides by professional ethical
42 conduct requirements;

43 (4) at board discretion, has passed a board-approved English
44 proficiency test if English is not the applicant's primary language; and

45 (5) meets other credentialing requirements specified in board rule.

46 (b) An applicant who fulfills the conditions of this subdivision
47 and demonstrates the minimum knowledge in dental subjects required for
48 licensure under subdivision 1 or 2 must be licensed to practice the
49 applicant's profession.

50 (c) If the applicant does not demonstrate the minimum knowledge in
51 dental subjects required for licensure under subdivision 1 or 2, the
52 application must be denied. When denying a license, the board may notify
53 the applicant of any specific remedy that the applicant could take which,
54 when passed, would qualify the applicant for licensure. A denial does not
55 prohibit the applicant from applying for licensure under subdivision 1 or
56 2.

57 (d) A candidate whose application has been denied may appeal the
58 decision to the board according to subdivision 4a.

59 Subd. 6. [DISPLAY OF NAME AND CERTIFICATES.] The name, initial
60 license and subsequent renewal, or current registration certificate, and

1 ~~annual registration certificate of every licensed dentist, dental~~
2 ~~hygienist, or registered dental assistant shall be conspicuously displayed~~
3 ~~in every office in which that person practices, in plain sight of~~
4 ~~patients. If there is more than one dentist, dental hygienist, or~~
5 ~~registered dental assistant practicing or employed in any office, the~~
6 ~~manager or proprietor of the office shall display in plain sight the name,~~
7 ~~license certificate and annual registration certificate of each dentist,~~
8 ~~dental hygienist, or registered dental assistant practicing or employed~~
9 ~~there. Near or on the entrance door to every office where dentistry is~~
10 ~~practiced, the name of each dentist practicing there, as inscribed on the~~
11 ~~current license certificate and annual registration certificate of each~~
12 ~~dentist, shall be displayed in plain sight.~~

13 Subd. 7. [ADDITIONAL REMEDIES FOR LICENSURE AND REGISTRATION.] On
14 a case-by-case basis, for initial or renewal of licensure or registration,
15 the board may add additional remedies for deficiencies found based on the
16 applicant's performance, character, and education.

17 Subd. 8. [REGISTRATION BY CREDENTIALS.]

18 (a) Any dental assistant may, upon application and payment of a fee
19 established by the board, apply for registration based on an evaluation of
20 the applicant's education, experience, and performance record in lieu of
21 completing a board-approved dental assisting program for expanded
22 functions as defined in rule, and may be interviewed by the board to
23 determine if the applicant:

24 (1) has graduated from an accredited dental assisting program
25 accredited by the Commission of Dental Accreditation of the American
26 Dental Association, or is currently certified by the Dental Assisting
27 National Board;

28 (2) is not subject to any pending or final disciplinary action in
29 another state or Canadian province, or if not currently certified or
30 registered, previously had a certification or registration in another
31 state or Canadian province in good standing that was not subject to any
32 final or pending disciplinary action at the time of surrender;

33 (3) is of good moral character and abides by professional ethical
34 conduct requirements;

35 (4) at board discretion, has passed a board-approved English
36 proficiency test if English is not the applicant's primary language; and

37 (5) has met all expanded functions curriculum equivalency
38 requirements of a Minnesota board-approved dental assisting program.

39 (b) The board, at its discretion, may waive specific registration
40 requirements in paragraph (a).

41 (c) An applicant who fulfills the conditions of this subdivision
42 and demonstrates the minimum knowledge in dental subjects required for
43 registration under subdivision 2a must be registered to practice the
44 applicant's profession.

45 (d) If the applicant does not demonstrate the minimum knowledge in
46 dental subjects required for registration under subdivision 2a, the
47 application must be denied. If registration is denied, the board may
48 notify the applicant of any specific remedy that the applicant could take
49 which, when passed, would qualify the applicant for registration. A
50 denial does not prohibit the applicant from applying for registration
51 under subdivision 2a.

52 (e) A candidate whose application has been denied may appeal the
53 decision to the board according to subdivision 4a.

54
55 Sec. 4. [REGULATION OF DENTAL ASSISTANTS.] The Board of Dentistry,
56 in consultation with the Minnesota Dental Association, the Minnesota
57 Dental Assistants Association, and the Minnesota Dental Hygienists'
58 Association, shall establish a regulatory system for dental assistants
59 that recognizes the different degrees of practice within the profession,

1 including the expanded duties authorized under Minnesota Statutes, section
2 150A.10, subdivision 4. The system must establish:

3 (1) the appropriate level of education and training;

4 (2) the authorized scope of practice for each level of practice;

5 and

6 (3) the appropriate credentialing necessary to ensure public safety
7 and professional standing. The board shall submit the proposed regulatory
8 system to the legislature by January 15, 2005.

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

**DEPARTMENT OF HUMAN SERVICES LICENSING AND TECHNICAL
CORRECTIONS**

H.F. 2277 (Chapter 288)

SUMMARY: This bill makes several changes to the Department of Human Services licensing-related provisions, some of which have an impact on Minnesota State Colleges and Universities. These include; child development courses, best practices and quality improvement, and electronic health records.

Section	<i>MDH Licensing Bill</i>	Language Page
	ARTICLE 4	
	Child Care; Minnesota Family Investment Plan	
21	Training Program. This section changes references to the commissioner of Education to the commissioner of Human Services.	85
	ARTICLE 7	
	Health Care Cost Containment	
2	Best Practices and Quality Improvement. To improve quality and reduce health care costs, state agencies shall encourage the adoption of best practice guidelines and participation in best practices measurement activities by physicians, other health care providers, and health plan companies. The commissioner of health, human services, and employee relations are to report to the legislature by January 15, 2005 on the status of best practices and quality of care initiatives.	85
7	Electronic Health Record Work Group. The commissioner of health is to convene an Electronic Health Record Planning and Implementation Work Group that consists of representatives of hospitals, health plans, physicians, nurses and other health care providers, academic institutions, state government purchasers, public health providers, citizens, and others with knowledge of health information technology and electronic health records systems.	86

The group is to identify barriers to the adoption and implementation of electronic health record systems in Minnesota. The group shall provide preliminary assessments and recommendations to the legislature by December 31, 2004.

1 **DEPARTMENT OF HUMAN SERVICES LICENSING AND TECHNICAL**
2 **CORRECTIONS**
3 **H.F. 2277 (Chapter 288)**

4
5 ARTICLE 4

6 CHILD CARE; MINNESOTA FAMILY INVESTMENT PLAN

7
8 Sec. 21. Minnesota Statutes 2003 Supplement, section 119B.189,
9 subdivision 4, is amended to read:

10 Subd. 4. [TRAINING PROGRAM.] "Training program" means child
11 development courses offered by an accredited postsecondary institution or
12 similar training approved by a county board or the commissioner. A
13 training program must be a course of study that teaches specific skills to
14 meet licensing requirements or requirements of the commissioner of
15 education human services.

16
17 ARTICLE 7

18 HEALTH CARE COST CONTAINMENT

19
20 Sec. 2. [62J.43] [BEST PRACTICES AND QUALITY IMPROVEMENT.]

21 (a) To improve quality and reduce health care costs, state agencies
22 shall encourage the adoption of best practice guidelines and participation
23 in best practices measurement activities by physicians, other health care
24 providers, and health plan companies. The commissioner of health shall
25 facilitate access to best practice guidelines and quality of care
26 measurement information to providers, purchasers, and consumers by:

27 (1) identifying and promoting local community-based, physician-
28 designed best practices care across the Minnesota health care system;

29 (2) disseminating information available to the commissioner on
30 adherence to best practices care by physicians and other health care
31 providers in Minnesota;

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

35 (4) making best practices and quality care measurement information
36 available to enrollees and program participants through the Department of
37 Health's Web site. The commissioner may convene an advisory committee to
38 ensure that the Web site is designed to provide user friendly and easy
39 accessibility.

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

44 (c) The initial best practices and quality of care measurement
45 criteria developed shall include asthma, diabetes, and at least two other
46 preventive health measures. Hypertension and coronary artery disease
47 shall be included within one year following availability.

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

51 (e) This section does not apply if the best practices guidelines
52 authorize or recommend denial of treatment, food, or fluids necessary to
53 sustain life on the basis of the patient's age or expected length of life
54 or the patient's present or predicted disability, degree of medical
55 dependency, or quality of life.

56 (f) The commissioner of health, human services, and employee
57 relations shall report to the legislature by January 15, 2005, on the
58 status of best practices and quality of care initiatives, and shall

1 present recommendations to the legislature on any statutory changes needed
2 to increase the effectiveness of these initiatives.

3 (g) This section expires June 30, 2006.

4
5 Sec. 7. [ELECTRONIC HEALTH RECORD WORK GROUP.]

6 (a) The commissioner of health shall convene an Electronic Health
7 Record Planning and Implementation Work Group. The work group shall
8 consist of representatives of hospitals, health plans, physicians, nurses,
9 other health care providers, academic institutions, state government
10 purchasers, public health providers, citizens, and others with knowledge
11 of health information technology and electronic health records systems.

12 (b) The work group shall:

13 (1) identify barriers to the adoption and implementation of
14 electronic health record systems in Minnesota;

15 (2) identify core components of an electronic health record and
16 standards for interoperability;

17 (3) assess the status of current implementation of electronic
18 health records in Minnesota;

19 (4) assess the costs for primary and acute health care providers,
20 including safety net clinics and hospitals, to implement electronic health
21 records systems;

22 (5) identify partnership models and collaboration potential for
23 implementing electronic health records systems;

24 (6) monitor the development of federal standards, coordinate input
25 to the National Health Information Infrastructure Process, and ensure that
26 Minnesota's recommendations are consistent with emerging federal
27 standards; and

28 (7) identify barriers and develop a plan to develop a unified
29 record system among public hospitals and clinics.

30 (c) By December 31, 2004, the work group shall provide preliminary
31 assessments and recommendations to the chairs of the house and senate
32 committees with jurisdiction over health care policy and financing. The
33 recommendations shall also include the appropriate role of the state in
34 the development, financing, promotion, and implementation of an electronic
35 health records system.

JOB REFERENCE LIABILITY BILL
H.F. 480 (Chapter 137)

SUMMARY: This bill limits the civil liability of private and public employers for disclosing information on current and former employees consistent with the bill.

Section	<i>Job Reference Liability Bill</i>	Language Page
2	Right to Review; Frequency. This section makes a change to an employee reviewing their personnel record after separation from employment. The employee may review the record once each year after separation for as long as the personnel record is maintained.	89
3	Employment References. Subdivision 1. Definitions. This section defines employee, employer, personnel record, private employer, and public employer. Subdivision 2. Causes of Action Limited. This section provides that no action may be maintained against a private or public employer for disclosing information about a current or former employee to a prospective employer or employment agency unless the employee provides clear and convincing evidence that the information was false and defamatory, and the employer knew or should have known it was false and acted with malicious intent to injure the current or former employee. Subdivision 4. Disclosure of Personnel Data by Public Employer. This section provides that subdivision 2 applies to disclosure by public employers if a current or former employee gives written consent to the release of the following: written employee evaluations and employee responses contained in the personnel record; and reasons for separation from employment. Subdivision 6. Application; Relation to Other Law. This section states that Section 3 does not affect common law (case law) limitations on liability and does not apply to an alleged violation of Chapter 363 or other statute. It also states that Section 3 does not diminish or impair the rights of a person under a collective bargaining agreement.	89
4	Effective Date. Section 3 is effective August 1, 2004 and applies to disclosures of information made on or after that date.	89

1
2 **JOB REFERENCE LIABILITY BILL**
3 **H.F. 480 (Chapter 137)**
4

5 Sec. 2. Minnesota Statutes 2002, section 181.961, subdivision 1,
6 is amended to read:

7 Subdivision 1. [RIGHT TO REVIEW; FREQUENCY.] Upon written request
8 by an employee, the employer shall provide the employee with an
9 opportunity to review the employee's personnel record. An employer is not
10 required to provide an employee with an opportunity to review the
11 employee's personnel record if the employee has reviewed the personnel
12 record during the previous six months; except that, upon separation from
13 employment, an employee may review the employee's personnel record ~~only~~
14 once at any time within one each year after separation for as long as the
15 personnel record is maintained.

16
17 Sec. 3. [181.967] [EMPLOYMENT REFERENCES.]

18 Subdivision 1. [DEFINITIONS.] For purposes of this section:

19 (1) "employee" means a person who performs services for hire and
20 includes an officer of a corporation;

21 (2) "employer" means a person who has one or more employees and
22 includes a designated employee or agent who discloses information on
23 behalf of an employer;

24 (3) "personnel record" has the meaning given in section 181.960;

25 (4) "private employer" means an employer that is not a government
26 entity, as defined in section 13.02; and

27 (5) "public employer" means an employer that is a government
28 entity, as defined in section 13.02.

29 Subd. 2. [CAUSES OF ACTION LIMITED.] No action may be maintained
30 against an employer by an employee or former employee for the disclosure
31 of information listed in subdivisions 3 to 5 about the employee to a
32 prospective employer or employment agency as provided under this section,
33 unless the employee or former employee demonstrates by clear and
34 convincing evidence that:

35 (1) the information was false and defamatory; and

36 (2) the employer knew or should have known the information was
37 false and acted with malicious intent to injure the current or former
38 employee.

39 Subd. 4. [DISCLOSURE OF PERSONNEL DATA BY PUBLIC EMPLOYER.]

40 Subdivision 2 applies to the disclosure of all public personnel data and
41 to the following private personnel data under section 13.43 by a public
42 employer if the current or former employee gives written consent to the
43 release of the private data:

44 (1) written employee evaluations conducted before the employee's
45 separation from the employer, and the employee's written response, if any,
46 contained in the employee's personnel record; and

47 (2) written reasons for separation from employment.

48 Subd. 6. [APPLICATION; RELATION TO OTHER LAW.]

49 (a) This section does not affect the availability of other
50 limitations on liability under common law.

51 (b) This section does not apply to an action involving an alleged
52 violation of chapter 363 or other statute.

53 (c) This section does not diminish or impair the rights of a person
54 under a collective bargaining agreement.

55
56 Sec. 4. [EFFECTIVE DATE.] Section 3 is effective August 1, 2004,
57 and applies to disclosures of information made on or after that date.
58

**INSURANCE FRAUD; AUTO THEFT PREVENTION; AND BARBERS AND
COSMETOLOGISTS BILL
H.F 2640 (Chapter 269)**

SUMMARY: This bill modifies provisions relating to barbers and cosmetologists, which may have some affect on Minnesota State Colleges and Universities that offer Barbering and Cosmetology programs. The bill also creates a Board of Barber and Cosmetologist Examiners.

Section	<i>Insurance Fraud; Auto Theft Prevention; and Barbers and Cosmetologists Bill</i>	Language Page
7	Admission Requirements; Course of Instruction. This section adds clarity to what courses must be included for barbering programs.	93
18	Board of Barber and Cosmetologist Examiners Created; Terms. This section creates a Board of Barber and Cosmetologist Examiners that shall be made up of three barber members, three cosmetologist members, and one public member.	93

1
2 **INSURANCE FRAUD; AUTO THEFT PREVENTION; AND BARBERS AND**
3 **COSMETOLOGISTS BILL**
4 **H.F. 2640 (Chapter 269)**

5
6 ARTICLE 3
7 BARBERS AND COSMETOLOGISTS

8
9 Sec. 7. Minnesota Statutes 2002, section 154.07, as amended by
10 Laws 2003, chapter 130, section 12, is amended to read: 154.07 [BARBER
11 SCHOOLS; REQUIREMENTS.]

12 Subdivision 1. [ADMISSION REQUIREMENTS; COURSE OF INSTRUCTION.] No
13 barber school shall be approved by the board unless it requires, as a
14 prerequisite to admission ~~thereto~~, ten grades of an approved school or its
15 equivalent, as determined by an examination conducted by the commissioner
16 of education, which shall issue a certificate that the student has passed
17 the required examination, and unless it requires, as a prerequisite to
18 graduation, a course of instruction of at least 1,500 hours, of not more
19 than eight hours in any one working day, ~~such~~. The course of instruction
20 ~~to~~ must include the following subjects: scientific fundamentals for
21 barbering; hygiene; practical study of the hair, skin, muscles, and
22 nerves; structure of the head, face, and neck; elementary chemistry
23 relating to sterilization and antiseptics; diseases of the skin, hair, and
24 glands; massaging and manipulating the muscles of the face and neck;
25 haircutting; shaving, and; trimming the beard; bleaching, tinting and
26 dyeing the hair; and the chemical straightening of hair.
27

28 Sec. 18. Minnesota Statutes 2002, section 154.22, is amended to
29 read: 154.22 [BOARD OF BARBER AND COSMETOLOGIST EXAMINERS CREATED; TERMS.]

30 (a) A Board of Barber and Cosmetologist Examiners is established to
31 consist of ~~four~~ three barber members, three cosmetologist members, and one
32 public member, as defined in section 214.02, appointed by the governor.
33 ~~Three of such~~

34 (b) The barber members shall be persons who have practiced as a
35 registered barber barbers in this state for at least five years
36 immediately prior to their appointment; shall be graduates from the 12th
37 grade of a high school or have equivalent education, and shall have
38 knowledge of the matters to be taught in registered barber schools, as set
39 forth in section 154.07. The remaining member of the board shall be a
40 public member as defined by section 214.02. One of the members shall be a
41 member of, or recommended by, a union of journeymen barbers which shall
42 have that has existed at least two years, and one shall be a member of, or
43 recommended by, a professional organization of barbers.

44 (c) All members must be currently licensed in the state of
45 Minnesota, have practiced in the licensed occupation for at least five
46 years immediately prior to their appointment, be graduates from the 12th
47 grade of high school or have equivalent education, and have knowledge of
48 sections 155A.01 to 155A.16 and Minnesota Rules, chapters 2642 and 2644.
49 The members shall be members of, or recommended by, a professional
50 organization of cosmetologists, manicurists, or estheticians.

51 (d) Membership terms, compensation of members, removal of members,
52 the filling of membership vacancies, and fiscal year and reporting
53 requirements shall be as provided in sections 214.07 to 214.09. The
54 provision of staff, administrative services and office space; the review
55 and processing of complaints; the setting of board fees; and other
56 provisions relating to board operations shall be as provided in chapter
57 214.

1 (e) Members appointed to fill vacancies caused by death,
2 resignation, or removal shall serve during the unexpired term of their
3 predecessors.

4 (f) The barber members of the board shall separately oversee
5 administration, enforcement, and regulation of, and adoption of rules
6 under, sections 154.01 to 154.26. The cosmetologist members of the board
7 shall separately oversee administration, enforcement, and regulation of,
8 and adoption of rules under, sections 155A.01 to 155A.16. Staff hired by
9 the board, including inspectors, shall serve both professions.

ECONOMIC SECURITY DEPARTMENT AND EMPLOYMENT AND ECONOMIC DEVELOPMENT DEPARTMENT MERGER BILL
HF. 2386 (Chapter 206)

SUMMARY: This bill makes a number of changes in laws governing the Department of Employment and Economic Development (DEED), some of which affect Minnesota State Colleges and Universities. Those include; new language on the powers and duties of the Commissioner of DEED, and changes in membership of the advisory committee and the Workforce Development Council.

Section	<i>DES and DEED Merger Bill</i>	Language Page
12	Powers and Duties. This section lists the powers and duties of the Commissioner of Employment and Economic Development. Subdivision 7. The commissioner shall provide consistent, integrated employment and training services across the state. Subdivision 9. The commissioner shall establish the standards for all employment and training services. Subdivision 19. The commissioner shall provide current state and substate labor market information and forecasts in cooperation with other agencies. Subdivision 20. The commissioner shall require all general employment and training programs that receive state funds to make available information about opportunities for women in nontraditional careers in the trades and technical occupations.	97
44	Advisory Committee. The advisory committee, which includes a representative of the chancellor of the Minnesota State Colleges and Universities, and assists the commissioner in selecting eligible organizations to receive program grants and evaluating the final reports of each organization, is changed from 13 members to 12 members.	97
46	Workforce Development Council. Subdivision 1. Creation. This section updates references to federal law. Subdivision 2. Membership. The membership of the governor's Workforce Development Council that includes the chancellor of the Board of the Trustees of the Minnesota State Colleges and Universities, is changed from 33 members to 31 members. This section also identifies the University of Minnesota as the postsecondary representative on the Council.	97

Subdivision 3. Purpose; Duties. This section updates references to federal law as it pertains to purpose and duties of the Workforce Development Council.

Subdivision 4. Subcommittees. This section deletes the language on appointing an advisory subcommittee and to advise the council on the establishment of the statewide education and employment transitions system.

Subdivision 5. Staffing. This section changes who provides staff support to the Minnesota Workforce Development Council. The Department of Education no longer shall jointly staff the Education and Employment Transitions Subcommittee and its activity with the full council. DEED will provide staff support.

1
2 ***ECONOMIC SECURITY DEPARTMENT AND EMPLOYMENT AND ECONOMIC***
3 ***DEVELOPMENT DEPARTMENT MERGER BILL***
4 ***H.F. 2386 (Chapter 206)***
5

6 Sec. 12. Minnesota Statutes 2003 Supplement, section 116J.401, is
7 amended to read: 116J.401 [POWERS AND DUTIES.]

8 The commissioner of employment and economic development shall:

9 (7) provide consistent, integrated employment and training services
10 across the state;

11 (9) establish the standards for all employment and training
12 services administered under this chapter and chapters 116L, 248, 268, and
13 268A;

14 (19) provide current state and substate labor market information
15 and forecasts, in cooperation with other agencies;

16 (20) require all general employment and training programs that
17 receive state funds to make available information about opportunities for
18 women in nontraditional careers in the trades and technical occupations;

19
20 Sec. 44. Minnesota Statutes 2003 Supplement, section 268.363, is
21 amended to read: 268.363 [ADVISORY COMMITTEE.]

22 A ~~13-member~~ 12-member advisory committee is established as provided
23 under section 15.059 to assist the commissioner in selecting eligible
24 organizations to receive program grants and evaluating the final reports
25 of each organization. ~~Notwithstanding section 15.059, the advisory~~
26 ~~committee shall not expire before June 30, 1995.~~ Members of the committee
27 may be reimbursed for expenses but may not receive any other compensation
28 for service on the committee. The advisory committee consists of
29 representatives of the commissioners of education, human services, and
30 employment and economic security development; a representative of the
31 chancellor of the Minnesota State Colleges and Universities; a
32 representative of the commissioner of the Housing Finance Agency; ~~the~~
33 ~~director of the Office of Jobs Policy~~; and seven public members appointed
34 by the governor. Each of the following groups must be represented by a
35 public member experienced in working with targeted youth: labor
36 organizations, local educators, community groups, consumers, local housing
37 developers, youth between the ages of 16 and 24 who have a period of
38 homelessness, and other homeless persons. At least three of the public
39 members must be from outside of the metropolitan area as defined in
40 section 473.121, subdivision 2. The commissioner may provide staff to the
41 advisory committee to assist it in carrying out its purpose.
42

43 Sec. 46. Minnesota Statutes 2002, section 268.665, as amended by
44 Laws 2003, chapter 130, section 12, and Laws 2003, First Special Session
45 chapter 4, section 1, is amended to read: 268.665 [WORKFORCE DEVELOPMENT
46 COUNCIL.]

47 Subdivision 1. [CREATION.] The governor's Workforce Development
48 Council is created under the authority of the ~~Job Training Partnership~~
49 ~~Act, United States Code, title 29, section 1501~~ Workforce Investment Act,
50 United States Code, title 29, section 2911, et seq. Local workforce
51 development councils are authorized under the ~~Job Training Partnership~~
52 ~~Act, United States Code, title 29, section 1501 and the one stop career~~
53 ~~center system~~ Workforce Investment Act. The governor's Workforce
54 Development Council serves as Minnesota's Workforce Investment Board for
55 the purposes of the federal Workforce Investment Act.

56 Subd. 2. [MEMBERSHIP.] The governor's Workforce Development
57 Council is composed of ~~33~~ 31 members appointed by the governor. The
58 members may be removed pursuant to section 15.059. In selecting the

1 representatives of the council, the governor shall ensure that 50 percent
2 of the members come from nominations provided by local workforce councils.
3 Local education representatives shall come from nominations provided by
4 local education to employment partnerships. The ~~33~~ 31 members shall
5 represent the following sectors:

6 (a) State agencies: the following individuals shall serve on the
7 council:

8 (1) commissioner of the Minnesota Department of Employment and
9 Economic Security Development;

10 (2) commissioner of the Minnesota Department of Education; and

11 (3) commissioner of the Minnesota Department of Human Services; ~~and~~

12 ~~(4) commissioner of the Minnesota Department of Employment and~~
13 ~~Economic Development.~~

14 (b) Business and industry: six individuals shall represent the
15 business and industry sectors of Minnesota.

16 (c) Organized labor: six individuals shall represent labor
17 organizations of Minnesota.

18 (d) Community-based organizations: four individuals shall
19 represent community-based organizations of Minnesota. Community-based
20 organizations are defined by the ~~Job Training Partnership~~ Workforce
21 Investment Act as private nonprofit organizations that are representative
22 of communities or significant segments of communities and that ~~provide job~~
23 ~~training services, agencies serving youth, agencies serving individuals~~
24 ~~with disabilities, agencies serving displaced homemakers, union-related~~
25 ~~organizations, and employer-related nonprofit organizations and~~
26 ~~organizations serving nonreservation Indians and tribal governments~~ have
27 demonstrated expertise and effectiveness in the field of workforce
28 investment and may include entities that provide job training services,
29 serve youth, serve individuals with disabilities, serve displaced
30 homemakers, union-related organizations, employer-related nonprofit
31 organizations, and organizations serving nonreservation Indians and tribal
32 governments.

33 (e) Education: six individuals shall represent the education
34 sector of Minnesota as follows:

35 (1) one individual shall represent local public secondary
36 education;

37 (2) one individual shall have expertise in design and
38 implementation of school-based service-learning;

39 (3) one individual shall represent ~~postsecondary education~~
40 leadership of the University of Minnesota;

41 (4) one individual shall represent secondary/postsecondary
42 vocational institutions;

43 (5) the chancellor of the Board of Trustees of the Minnesota State
44 Colleges and Universities; and

45 (6) one individual shall have expertise in agricultural education.

46 (f) Other: two individuals shall represent other constituencies
47 including:

48 (1) units of local government; and

49 (2) applicable state or local programs.

50 The speaker and the minority leader of the house of representatives shall
51 each appoint a representative to serve as an ex officio member of the
52 council. The majority and minority leaders of the senate shall each
53 appoint a senator to serve as an ex officio member of the council. ~~After~~
54 ~~January 1, 1997, the Minnesota director of the Corporation for National~~
55 ~~Service shall also serve as an ex officio member.~~

56 (g) Appointment: each member shall be appointed for a term of
57 three years from the first day of January or July immediately following
58 their appointment. Elected officials shall forfeit their appointment if
59 they cease to serve in elected office.

1 (h) Members of the council are compensated as provided in section
2 15.059, subdivision 3.

3 Subd. 3. [PURPOSE; DUTIES.] The governor's Workforce Development
4 Council shall replace the governor's Job Training Council and assume all
5 of its requirements, duties, and responsibilities, under the ~~Job Training~~
6 ~~Partnership Act, United States Code, title 29, section 1501, et seq~~
7 Workforce Investment Act. Additionally, the Workforce Development Council
8 shall assume the following duties and responsibilities:

9 (a) ~~Coordinate the development, implementation, and evaluation of~~
10 ~~the statewide education and employment transitions system under section~~
11 ~~124D.46. Beginning January 1, 1997, the council shall also coordinate the~~
12 ~~development, implementation, and evaluation of the Minnesota youth~~
13 ~~services programs under sections 124D.39 to 124D.44, and the National and~~
14 ~~Community Services Act of 1993, United States Code, title 42, section~~
15 ~~12501, et seq.~~

16 ~~(b) Review the provision of services and the use of funds and~~
17 ~~resources under applicable federal human resource programs and advise the~~
18 ~~governor on methods of coordinating the provision of services and the use~~
19 ~~of funds and resources consistent with the laws and regulations governing~~
20 ~~the programs. For purposes of this section, applicable federal and state~~
21 ~~human resource programs mean the:~~

22 (1) ~~Job Training Partnership Act, United States Code, title 29,~~
23 ~~section 1501~~ Workforce Investment Act, United States Code, title 29,
24 section 2911, et seq.;

25 (2) Carl D. Perkins Vocational and Applied Technology Education
26 Act, United States Code, title 20, section 2301, et seq.;

27 (3) ~~National and Community Service Act of 1993, United States Code,~~
28 ~~title 42, section 12501, et seq.;~~

29 ~~(4) Adult Education Act, United States Code, title 20, section~~
30 ~~1201, et seq.;~~

31 ~~(5) (4) Wagner-Peyser Act, United States Code, title 29, section~~
32 ~~49;~~

33 ~~(6) Social Security Act, title IV, part F, (JOBS), United States~~
34 ~~Code, title 42, section 681, et seq. (5) Personal Responsibility and Work~~
35 ~~Opportunities Act of 1996 (TANF);~~

36 ~~(7) (6) Food Stamp Act of 1977, United States Code, title 7,~~
37 ~~section 6(d)(4), Food Stamp Employment and Training Program, United States~~
38 ~~Code, title 7, section 2015(d)(4); and~~

39 ~~(8) (7) programs defined in section 268.0111, subdivision 5, and~~

40 ~~(9) School to Work Opportunity Act of 1994, Public Law 103-239.~~

41 Additional federal and state programs and resources can be included within
42 the scope of the council's duties if recommended by the governor after
43 consultation with the council.

44 ~~(e) (b) Review federal, state, and local education, postsecondary,~~
45 ~~job skills training, and youth employment programs, and make~~
46 ~~recommendations to the governor and the legislature for establishing an~~
47 ~~integrated seamless system for providing education, service-learning, and~~
48 ~~work skills development services to learners and workers of all ages.~~

49 ~~(d) (c) Advise the governor on the development and implementation~~
50 ~~of statewide and local performance standards and measures relating to~~
51 ~~applicable federal human resource programs and the coordination of~~
52 ~~performance standards and measures among programs.~~

53 ~~(e) Develop program guidelines and recommend grant approval~~
54 ~~procedures to the Department of Education for grants to local education~~
55 ~~and employment transition partnerships, including implementation grants~~
56 ~~under section 124D.46, grants for youth apprenticeship programs under~~
57 ~~section 124D.47, and youth employer grants; and~~

58 ~~(1) coordinate implementation of the education and employment~~
59 ~~transitions system under section 124D.46;~~

1 ~~(2)~~ (d) promote education and employment transitions programs and
2 knowledge and skills of entrepreneurship among employers, workers, youth,
3 and educators, and encourage employers to provide meaningful work-based
4 learning opportunities;

5 ~~(3)~~ (e) evaluate and identify exemplary education and employment
6 transitions programs and provide technical assistance to local
7 partnerships to replicate the programs throughout the state;

8 ~~(4)~~ establish a performance-based quality assurance system for
9 consistent statewide evaluation of the performance of the education and
10 employment transitions system at both the state and local level;

11 ~~(5)~~ conduct an annual review of each local education and employment
12 transitions partnership to ensure it adequately meets the quality
13 assurance standards established as part of the state quality assurance
14 system;

15 ~~(6)~~ develop the methods to assess local partnership effectiveness;

16 ~~(7)~~ annually publish a report on the findings of the evaluations of
17 each local education transitions partnership;

18 ~~(8)~~ promote knowledge and skills of entrepreneurship among
19 students in kindergarten through grade 12 by sharing information about the
20 ways new business development contributes to a strong economy.

21 (f) Advise the governor on methods to evaluate applicable federal
22 human resource programs.

23 (g) Sponsor appropriate studies to identify human investment needs
24 in Minnesota and recommend to the governor goals and methods for meeting
25 those needs.

26 (h) Recommend to the governor goals and methods for the development
27 and coordination of a human resource system in Minnesota.

28 (i) Examine federal and state laws, rules, and regulations to
29 assess whether they present barriers to achieving the development of a
30 coordinated human resource system.

31 (j) Recommend to the governor and to the federal government changes
32 in state or federal laws, rules, or regulations concerning employment and
33 training programs that present barriers to achieving the development of a
34 coordinated human resource system.

35 (k) Recommend to the governor and to the federal government waivers
36 of laws and regulations to promote coordinated service delivery.

37 (l) Sponsor appropriate studies and prepare and recommend to the
38 governor a strategic plan which details methods for meeting Minnesota's
39 human investment needs and for developing and coordinating a state human
40 resource system.

41 Subd. 4. [SUBCOMMITTEES.] ~~The governor's workforce development~~
42 ~~council shall appoint an advisory subcommittee the majority of whose~~
43 ~~members shall represent business and industry to advise the council on the~~
44 ~~establishment of the statewide education and employment transitions~~
45 ~~system.~~ The chair of the Workforce Development Council may establish
46 subcommittees in order to carry out the duties and responsibilities of the
47 council.

48 Subd. 5. [STAFFING.] The Department of Employment and Economic
49 Security Development must provide staff support to the Minnesota Workforce
50 Development Council. ~~The Department of Economic Security and the~~
51 ~~Department of Education shall jointly staff the Education and Employment~~
52 ~~Transitions Subcommittee and its activity with the full council.~~ The
53 support includes professional, technical, and clerical staff necessary to
54 perform the duties assigned to the Workforce Development Council. The
55 council may ask for assistance from other units of state government as it
56 requires in order to fulfill its duties and responsibilities.
57

**CLOSED MEETINGS OF PUBLIC BODIES BILL
S.F. 2114 (Chapter 276)**

SUMMARY: This bill amends the Open Meeting Law by adding a provision that allows the closing of a public body meeting that would otherwise be subject to the law, to (1) determine the asking price for a sale of real or personal property by the government entity; (2) to review appraisal data classified as confidential or nonpublic; and (3) to develop or consider purchase or sale offers or counter-offers.

Section	<i>Closed Meetings of Public Bodies Bill</i>	Language Page
1	What Meetings May Be Closed. This section adds a provision allowing the closing of a public body meeting that would otherwise be subject to the law, to (1) determine the asking price for a sale of real or personal property by the government entity; (2) to review appraisal data classified as confidential or nonpublic; and (3) to develop or consider purchase or sale offers or counter-offers.	103

The bill also specifies that the property must be identified on the record before the closed meeting, and the closed meeting must be tape recorded. Tape must be kept for eight years and be made public after property has been purchased or sold, or the transaction has been abandoned. If an action is brought claiming that business not allowed under this paragraph was discussed at the closed meeting, the court will follow the same procedure in the current Open Meeting Law for challenging a similar alleged violation.

Effective Date. Section 1 is effective the day following final enactment.

1
2 **CLOSED MEETINGS OF PUBLIC BODIES BILL**
3 **S.F. 2114 (Chapter 276)**
4

5 Section 1. Minnesota Statutes 2002, section 13D.05, subdivision 3,
6 is amended to read:

7 Subd. 3. [WHAT MEETINGS MAY BE CLOSED.]

8 (a) A public body may close a meeting to evaluate the performance of
9 an individual who is subject to its authority. The public body shall
10 identify the individual to be evaluated prior to closing a meeting. At its
11 next open meeting, the public body shall summarize its conclusions
12 regarding the evaluation. A meeting must be open at the request of the
13 individual who is the subject of the meeting.

14 (b) Meetings may be closed if the closure is expressly authorized by
15 statute or permitted by the attorney-client privilege.

16 (c) A public body may close a meeting:

17 (1) to determine the asking price for real or personal property to be
18 sold by the government entity;

19 (2) to review confidential or nonpublic appraisal data under section
20 13.44, subdivision 3; and

21 (3) to develop or consider offers or counteroffers for the purchase
22 or sale of real or personal property.

23 Before holding a closed meeting under this paragraph, the public body
24 must identify on the record the particular real or personal property that
25 is the subject of the closed meeting. The proceedings of a meeting closed
26 under this paragraph must be tape recorded at the expense of the public
27 body. The recording must be preserved for eight years after the date of
28 the meeting and made available to the public after all real or personal
29 property discussed at the meeting has been purchased or sold or the
30 governing body has abandoned the purchase or sale. The real or personal
31 property that is the subject of the closed meeting must be specifically
32 identified on the tape. A list of members and all other persons present at
33 the closed meeting must be made available to the public after the closed
34 meeting. If an action is brought claiming that public business other than
35 discussions allowed under this paragraph was transacted at a closed meeting
36 held under this paragraph during the time when the tape is not available to
37 the public, section 13D.03, subdivision 3, applies. An agreement reached
38 that is based on an offer considered at a closed meeting is contingent on
39 approval of the public body at an open meeting. The actual purchase or
40 sale must be approved at an open meeting after the notice period required
41 by statute or the governing body's internal procedures, and the purchase
42 price or sale price is public data.

43 [EFFECTIVE DATE.] This section is effective the day following final
44 enactment.
45

AFFIRMATIVE ACTION IN STATE EMPLOYMENT BILL
H.F. 2609 (Chapter 287)

SUMMARY: This bill amends certain laws governing affirmative action provisions relating to state employment.

Section	<i>Affirmative Action in State Employment Bill</i>	Language Page
1	Goal Unit. This section defines “goal unit” for purposes of the laws governing the state affirmative action program. The term is defined by reference to Equal Employment Opportunity (EEO) occupational categories.	107
2	Statewide Affirmative Action Program. This section amends the current laws governing the program to require the commissioner of employee relations to establish statewide goals for each of the federal EEO occupational categories applicable to state employment.	107

1
2 **AFFIRMATIVE ACTION IN STATE EMPLOYMENT BILL**
3 **H.F. 2609 (Chapter 287)**
4

5 Section 1. Minnesota Statutes 2002, section 43A.02, is amended by
6 adding a subdivision to read:

7 Subd. 22b. [GOAL UNIT.] "Goal unit" means, for the purposes of
8 affirmative action, the group of jobs in an agency or agency subdivision
9 assigned to one of the federal Equal Employment Opportunity (EEO)
10 occupation categories applicable to state employment.
11

12 Sec. 2. Minnesota Statutes 2002, section 43A.19, subdivision 1, is
13 amended to read:

14 Subdivision 1. [STATEWIDE AFFIRMATIVE ACTION PROGRAM.]

15 (a) To assure that positions in the executive branch of the civil
16 service are equally accessible to all qualified persons, and to eliminate
17 the underutilization of qualified members of protected groups, the
18 commissioner shall adopt and periodically revise, if necessary, a
19 statewide affirmative action program. The statewide affirmative action
20 program must consist of at least the following:

21 (1) objectives, goals, and policies;

22 (2) procedures, standards, and assumptions to be used by agencies
23 in the preparation of agency affirmative action plans, including methods
24 by which goals and timetables are established;

25 (3) the analysis of separation patterns to determine the impact on
26 protected group members; and

27 (4) requirements for annual objectives and submission of
28 affirmative action progress reports from heads of agencies.

29 (b) The commissioner shall ~~base~~ establish statewide affirmative
30 action goals ~~on~~ for each of the federal Equal Employment Opportunity (EEO)
31 occupational categories applicable to state employment, using at least the
32 following factors:

33 (1) the percentage of members of each protected class in the
34 recruiting area population who have the necessary skills; and

35 (2) the availability for promotion or transfer of current employees
36 who are members of protected classes in the recruiting area population;

37 (c) The commissioner may use any of the following factors in
38 addition to the factors required under paragraph (b):

39 ~~(3)~~ (1) the extent of unemployment of members of protected classes
40 in the recruiting area population;

41 ~~(4)~~ (2) the existence of training programs in needed skill areas
42 offered by employing agencies and other institutions; and

43 ~~(5)~~ (3) the expected number of available positions to be filled.

44 ~~(e)~~ (d) The commissioner shall designate a state director of
45 diversity and equal employment opportunity who may be delegated the
46 preparation, revision, implementation, and administration of the program.
47 The commissioner of employee relations may place the director's position
48 in the unclassified service if the position meets the criteria established
49 in section 43A.08, subdivision 1a.
50

**STATE EMPLOYMENT PROCESS MODIFICATIONS BILL
S.F. 2703 (Chapter 207)**

SUMMARY: This bill amends laws governing the state civil service. Generally, these changes reflect the way the system has operated since establishment of a pilot project in 1995. The changes eliminate the traditional system under which only a limited number of applicants who score highest on exams are considered for state jobs. Under the new system, hiring agencies can consider all applicants who meet minimum qualifications. The bill strikes references to terms such as “examinations” and “eligible lists,” and instead uses terms such as “selection procedures.”

Section	<i>State Employment Process Modifications Bill</i>	Language Page
1	Applicant. This section amends the definition of applicant in the state civil service law to mean a person who has satisfied the minimum requirements for application.	113
2	Applicant Pool. This section defines applicant pool to mean applicants who satisfy limits on consideration for the position, and who have been determined to meet minimum qualifications.	113
3	Appointment. This section refers to selection from a finalist pool, rather than an “eligible list.”	113
4	Class. In definition of state job “class” this section strikes the requirement that “same general qualifications are needed for performance of the duties of the class.”	113
5	Finalist Pool. This section defines “finalist pool” for state civil service jobs to mean members of the applicant pool who have been determined to best meet the qualifications.	113
6	Layoff List. This section amends the definition of “layoff list” to mean former employees of a job class who are eligible to be recalled under the terms of a collective bargaining agreement or compensation plan.	113
7	Probationary Period. This section changes the definition to refer to a selection process instead of an examination process.	113
8	Qualifying Appointment. This section changes the definition to reflect use of the terms “finalist pool,” “applicant,” and “selection process,” rather than the old terms “eligible list,” “candidate,” and “examination.”	114
9	Rules. This section amends current law authorizing rules to refer to “selection procedures.” It also strikes current references to terms such as “examination,” “ranking candidates,” and “eligible lists.”	114
10	Administrative Procedures. This section amends current law authorizing the commissioner of DOER to issue administrative procedures on certain topics to strike references to competitive exams, ranking and certification.	114
11	General. This section amends current law by striking references to examinations and preparation of eligible lists, and to refer instead to administration of systems for employee selection.	115

- 12 Selection Process.** This section amends laws governing initial entrance to the state classified civil service, and it strikes references to examination and certification. The section establishes a new process under which DOER will establish and maintain a database of applicants, and the appointing authority will enforce minimum requirements for those applicants who express interest directly to the appointing authority. **115**
- This section also provides that the term of eligibility for people on layoff lists will be determined by collective bargaining agreements or compensation plans. This section also authorizes the commissioner of DOER to limit consideration to only applicants who meet the minimum qualifications and are available for the geographic location and other job requirements. In addition, DOER may limit consideration to applicants who are on layoff lists, current employees, former employees who left within four years, or current employees available for transfer or demotion. The section also states the grounds for which DOER may remove an applicant from consideration.
- 13 Disabled Veteran; Definitions.** This section strikes part of the definition that refers to competitive promotional pools. **117**
- 14 Ranking of Veterans.** This section provides that applicants who meet minimum qualifications for a position and claim disabled veteran's preference shall be listed in the applicant pool ahead of all other applicants. Applicants who meet minimum qualifications and claim non-disabled veteran's preference shall be listed in the applicant pool after those claiming disabled veterans preference and ahead of no-veterans. **117**
- 15 Notification.** This section changes terminology consistent with other changes in the bill to refer to applicants and to strike references to "eligibles" and "examinations." **118**
- 16 Rejection; Explanation.** This section provides that when an appointing authority rejects a member of the finalist pool who has claimed veteran's preference, the appointing authority must notify the person in writing of the reasons for the rejection. **118**
- 17 Ranking of the Applicant Pool.** This section provides that applicant referred from a layoff list must be ranked as provided in collective bargaining agreement or compensation plan. All other names must be ranked according to the veterans' preference provisions, and then in descending order of the number of skill matches. **118**
- 18 General.** This section refers to finalist pool, rather than "eligible lists." **118**
- 19 Emergency Appointments.** This section provides that emergency appointments may be for 45 working days instead of 30. It also strikes language allowing DOER to extend appointments for up to 15 working days. **118**
- 20 Provisional Appointments.** This section authorizes a provisional appointment if no applicant is suitable (replacing current law which refers to an "incomplete certification"). **118**

-
- It also strikes language requiring provisional appointments to be kept to a minimum.
- 21 **Appointments for Unclassified Incumbents of Newly Classified Positions.** This section refers to selection process instead of examination. 119
- 22 **Routine Service.** This section strikes reference to qualifying skills test for entry-level clerical positions. 119
- 23 **On-the-Job Demonstration Process and Appointment.** This section refers to applicants and selection process instead of candidates and examinations. 119
- 24 **Reinstatement.** This section provides that the current four-year limit on reinstatement of a former employee does not apply to former employees receiving disability benefits under a state retirement plan. 119
- 25 **General.** In law dealing with probationary periods, this section strikes reference to “reemployments.” 120
- 26 **Audits; Sanctions; and Incentives.** This section changes references to subdivisions dealing with non-competitive appointments. 120
- 27 **Cooperation; State Agencies.** This section requires DOER to make the applicant database available to appointing authorities to use in making appointments to the unclassified service. 121
- 28 **Prohibited Acts; Penalties.** This section strikes reference to examination and certification and refers instead to the selection process. 121
- 29 **Veteran’s Preference Applied.** This section re-writes the laws that require local governments to give veterans preference. The current law refers to the state process, which this bill rewrites. 121

1
2 **STATE EMPLOYMENT PROCESS MODIFICATIONS BILL**
3 **S.F. 2703 (Chapter 207)**
4

5 Section 1. Minnesota Statutes 2002, section 43A.02, subdivision 4,
6 is amended to read:

7 Subd. 4. [APPLICANT.] "Applicant" means a person who has ~~completed~~
8 ~~a state application for employment and has submitted it to the Department~~
9 ~~of Employee Relations or other appointing authority who has been delegated~~
10 ~~authority to recruit and examine individuals for state jobs satisfied the~~
11 minimum requirements for application established by the commissioner.
12

13 Sec. 2. Minnesota Statutes 2002, section 43A.02, is amended by
14 adding a subdivision to read:

15 Subd. 4a. [APPLICANT POOL.] "Applicant pool" means those
16 applicants who satisfy any limits on consideration for the position under
17 section 43A.10, subdivision 6a, and who have been determined to meet the
18 minimum qualifications for a vacant position.
19

20 Sec. 3. Minnesota Statutes 2002, section 43A.02, subdivision 6, is
21 amended to read:

22 Subd. 6. [APPOINTMENT.] "Appointment" means the act of filling a
23 vacancy by placement of a person in a civil service position through
24 selection from ~~an eligible list~~ a finalist pool or a noncompetitive or
25 qualifying process including transfer, demotion or reinstatement.
26

27 Sec. 4. Minnesota Statutes 2002, section 43A.02, subdivision 11,
28 is amended to read:

29 Subd. 11. [CLASS.] "Class" means one or more positions
30 sufficiently similar with respect to duties and responsibilities that the
31 same descriptive title may be used with clarity to designate each position
32 allocated to the class and ~~that the same general qualifications are needed~~
33 ~~for performance of the duties of the class, and that the same schedule of~~
34 ~~pay can be applied with equity to all positions in the class under the~~
35 ~~same or substantially the same employment conditions.~~
36

37 Sec. 5. Minnesota Statutes 2002, section 43A.02, is amended by
38 adding a subdivision to read:

39 Subd. 22b. [FINALIST POOL.] "Finalist pool" means those members of
40 the applicant pool who have been determined to best meet all the
41 qualifications for a vacant position and who may be legally appointed to
42 the position.
43

44 Sec. 6. Minnesota Statutes 2002, section 43A.02, subdivision 26,
45 is amended to read:

46 Subd. 26. [LAYOFF LIST.] "Layoff list" means ~~an eligible a list by~~
47 ~~class~~ of former permanent or probationary employees of a job class who
48 have been terminated from positions in the class because of a shortage of
49 funds or curtailment of service or for any other reason beyond their
50 control not reflecting discredit on the employee are eligible to be
51 recalled to that class under the provisions of a collective bargaining
52 agreement or plan established under section 43A.18.
53

54 Sec. 7. Minnesota Statutes 2002, section 43A.02, subdivision 32,
55 is amended to read:

56 Subd. 32. [PROBATIONARY PERIOD.] "Probationary period", " part of
57 the examination selection process, means a working period following
58 unlimited appointment to a position in the classified service, during

1 which the employee is required to demonstrate ability to perform the
2 duties and fulfill the responsibilities of the position.
3

4 Sec. 8. Minnesota Statutes 2002, section 43A.02, subdivision 34,
5 is amended to read:

6 Subd. 34. [QUALIFYING APPOINTMENT.] "Qualifying appointment" means
7 the selection, from other than ~~an eligible list a finalist pool~~, of a
8 ~~candidate~~ an applicant who has demonstrated through ~~an examination a~~
9 selection process that the ~~candidate~~ applicant meets minimum job-related
10 requirements.
11

12 Sec. 9. Minnesota Statutes 2002, section 43A.04, subdivision 3, is
13 amended to read:

14 Subd. 3. [RULES.] The commissioner shall adopt rules under the
15 Administrative Procedure Act to implement the provisions of this chapter
16 that directly affect the rights of or processes available to the general
17 public. The rules have the force and effect of law and may include but
18 are not limited to:

19 (1) the processes for determining the extent of competition for
20 filling vacancies, for recruiting applicants, for conducting ~~competitive~~
21 ~~open examinations, for ranking candidates and maintaining competitive open~~
22 ~~eligible lists, and for certification and appointment of eligibles from~~
23 ~~competitive open eligible lists~~ selection procedures and for making
24 appointments of individuals who are not employees of the civil service;

25 (2) the process for effecting noncompetitive and qualifying
26 appointments;

27 (3) the process for temporary designation of positions in the
28 unclassified service and for effecting appointments to the unclassified
29 service;

30 (4) a statewide affirmative action program to include requirements
31 for agency affirmative action plans, statewide policies and procedures,
32 reporting requirements, accountability and responsibility of employees in
33 the executive branch, and overall objectives of the program;

34 (5) conditions under which moving and other expenses may be
35 authorized and paid prior to appointment to persons who have accepted
36 state employment;

37 (6) procedures for administration of the code of ethics for
38 employees of the executive branch;

39 (7) examination procedures for candidates with disabilities as
40 described in section 43A.15, subdivision 14; and

41 (8) procedures or policies that affect the operation of or
42 participation in the public employees insurance program.
43

44 Sec. 10. Minnesota Statutes 2002, section 43A.04, subdivision 4,
45 is amended to read:

46 Subd. 4. [ADMINISTRATIVE PROCEDURES.] The commissioner shall
47 develop administrative procedures, which are not subject to the rulemaking
48 provisions of the Administrative Procedure Act, to effect provisions of
49 chapter 43A which do not directly affect the rights of or processes
50 available to the general public. The commissioner may also adopt
51 administrative procedures, not subject to the Administrative Procedure
52 Act, which concern topics affecting the general public if those procedures
53 concern only the internal management of the department or other agencies
54 and if those elements of the topics which affect the general public are
55 the subject of department rules. Administrative procedures shall be
56 reproduced and made available for comment to agencies, employees, and
57 appropriate exclusive representatives certified pursuant to sections
58 179A.01 to 179A.25, for at least 15 days prior to implementation and shall
59 include but are not limited to:

1 (a) maintenance and administration of a plan of classification for
2 all positions in the classified service and for comparisons of
3 unclassified positions with positions in the classified service;

4 (b) procedures for administration of collective bargaining
5 agreements and plans established pursuant to section 43A.18 concerning
6 total compensation and the terms and conditions of employment for
7 employees;

8 (c) procedures for effecting all personnel actions internal to the
9 state service such as processes and requirements for agencies to publicize
10 job openings and consider applicants who are referred or nominate
11 themselves, conduct of ~~competitive promotional examinations, ranking and~~
12 ~~certification of selection procedures limited to employees for promotion,~~
13 noncompetitive and qualifying appointments of employees and leaves of
14 absence;

15 (d) maintenance and administration of employee performance
16 appraisal, training and other programs; and

17 (e) procedures for pilots of the reengineered employee selection
18 process. Employment provisions of this chapter, associated personnel
19 rules adopted under subdivision 3, and administrative procedures
20 established under clauses (a) and (c) may be waived for the purposes of
21 these pilots. The pilots may affect the rights of and processes available
22 to members of the general public seeking employment in the classified
23 service. The commissioner will provide public notice of any pilot
24 directly affecting the rights of and processes available to the general
25 public and make the administrative procedures available for comment to the
26 general public, agencies, employees, and appropriate exclusive
27 representatives certified pursuant to sections 179A.01 to 179A.25 for at
28 least 30 days prior to implementation.
29

30 Sec. 11. Minnesota Statutes 2002, section 43A.05, subdivision 1,
31 is amended to read:

32 Subdivision 1. [GENERAL.] The commissioner through the Personnel
33 Bureau shall perform the duties assigned in this chapter. The deputy for
34 the Personnel Bureau shall perform any duties delegated by the
35 commissioner. The commissioner's authority and responsibility shall
36 include but not be limited to maintenance of a classification plan,
37 assignment of all positions in the classified service to job classes,
38 maintenance and approval of total compensation plans for all positions in
39 the executive branch pursuant to the provisions of section 43A.18 and
40 other provisions of law; ~~preparation of examinations, rating of candidates~~
41 ~~for employment and preparation of eligible lists~~ administration of systems
42 for employee selection; maintenance of employee performance appraisal,
43 training and affirmative action programs; and maintenance and publication
44 of logical career paths in the classified civil service.
45

46 Sec. 12. Minnesota Statutes 2002, section 43A.10, is amended to
47 read: 43A.10 [EXAMINATIONS SELECTION PROCESS; ELIGIBILITY TO COMPETE.]

48 Subdivision 1. [GENERAL.] Entrance to the classified service shall
49 be through successful competition in ~~an examination and certification a~~
50 selection process and appointment from an eligible list a finalist pool
51 except as provided in section 43A.15 or other law and for employees in a
52 bargaining unit as defined in section 179A.10, appointments shall be
53 subject to applicable provisions of collective bargaining agreements.

54 Subd. 2. [EXAMINATION SELECTION CRITERIA AND METHODS.] All
55 ~~examinations~~ selection criteria and methods for filling positions in the
56 classified service shall be job related and designed to fairly assess
57 ability to perform the duties of the ~~class~~ vacant position for which the
58 examination selection process is given conducted.

59 Subd. 2a. [APPLICATION REQUIREMENTS.] The commissioner shall
60 establish and maintain a database of applicants for state employment. The

1 commissioner shall establish, publicize, and enforce minimum requirements
2 for application. The appointing authority shall enforce the established
3 minimum requirements for application for individuals who express interest
4 directly to the appointing authority.

5 Subd. 2b. [TERM OF ELIGIBILITY.] The term of eligibility on layoff
6 lists shall be as provided in the collective bargaining agreement or plan
7 established under section 43A.18, under which the layoff list was
8 established. The term of eligibility for all other applicants shall be
9 determined by the commissioner but shall not be less than six months.

10 Subd. 3. [FACILITIES FURNISHED ~~EXAMINERS~~ FOR SELECTION
11 PROCEDURES.] The authorities having control of public buildings in
12 political subdivisions of the state and school districts, upon written
13 request of the commissioner, shall furnish convenient facilities for the
14 administration of ~~examinations~~ selection procedures. Upon such request,
15 it shall be the duty of state and local authorities and employees, as it
16 is consistent with their other duties, to aid in carrying out the
17 provisions of this section. Campuses of the Minnesota State Colleges and
18 Universities may charge the commissioner for actual costs incurred in
19 providing facilities for ~~examinations~~ selection procedures, provided that
20 the costs were incurred due solely to the ~~examination~~ selection procedure.

21 Subd. 4. [CANDIDATES, ELIGIBLES APPLICANTS; EXPENSES.] The
22 commissioner or an appointing authority may pay travel expenses incurred
23 by ~~candidates or eligibles~~ applicants invited for oral examinations or
24 employment interviews in the manner and amounts authorized by the
25 commissioner.

26 Subd. 5. [ELIGIBILITY FOR COMPETITIVE OPEN EXAMINATIONS.]
27 Competitive open examinations shall, upon public notice, be open to all
28 applicants who meet reasonable job-related requirements fixed by the
29 commissioner.

30 Subd. 6. [ELIGIBILITY FOR COMPETITIVE PROMOTIONAL EXAMINATIONS.]
31 Competitive promotional examinations shall be open only to employees of
32 the civil service, the Minnesota State Retirement System, the Public
33 Employees Retirement Association, and the Teacher's Retirement
34 Association. The commissioner may require that competition be extended to
35 all employees as defined above or may limit competition to employees of
36 one or more agencies or organizational units thereof or to employees
37 meeting specified employment conditions.

38 Subd. 6a. [LIMITED CONSIDERATION OF APPLICANTS.] The commissioner
39 may limit consideration to only those applicants who have indicated
40 availability for the geographic location, employment condition, travel
41 status, and job grouping of the vacant position and who have indicated
42 possession of the minimum qualifications for the vacant position. In
43 addition, the commissioner may limit consideration to only those
44 applicants who are:

45 (1) employees on a layoff list for the job class of the position.
46 The appointing authority shall consider those names as provided in
47 collective bargaining agreements and plans established under section
48 43A.18;

49 (2) current employees of the civil service, the Minnesota State
50 Retirement System, the Public Employees Retirement Association, and the
51 Teacher's Retirement Association, or employees of one or more agencies or
52 organizational units under them;

53 (3) former permanent and probationary employees of the job class
54 who separated from the class in good standing within the past four years
55 and have indicated availability for reinstatement to the class; or

56 (4) current permanent and probationary employees who have indicated
57 availability for transfer or demotion to the job class.

58 Subd. 6b. [REFUSAL TO CONSIDER AN APPLICANT.] The commissioner may
59 remove from consideration any applicant who:

60 (1) has been dismissed for cause from the public service;

1 (2) has directly or indirectly given or promised to give anything
2 of value to any person in connection with the selection process,
3 appointment, or proposed appointment;

4 (3) has made a false statement of any material fact, or practiced
5 or attempted to practice any deception or fraud in the application or
6 selection process or in securing eligibility or appointment; or

7 (4) has a prior conviction of a crime directly related to the
8 vacant position provided the refusal is consistent with the requirements
9 and procedures of chapter 364. When the commissioner refuses to consider
10 an applicant, the commissioner shall, upon request of the applicant,
11 furnish the applicant a statement of the reasons for the refusal. Upon
12 receipt of relevant information, the commissioner shall reconsider the
13 refusal and may restore the applicant to consideration.

14 Subd. 7. [~~EXAMINATION SELECTION PROCESS ACCOMMODATIONS.~~] Upon
15 request, the commissioner or appointing authority shall provide
16 examination selection process accommodations to a candidate an applicant
17 with a disability that does not prevent performance of the duties of the
18 class position. The accommodations must provide an opportunity to fairly
19 examine assess the ability of the candidate applicant to perform the
20 duties of the class position notwithstanding the disability but must
21 preserve, to the extent feasible, the validity of the examination
22 selection process and equitable comparison of examination scores results
23 with the results of competitors without disabilities.

24 Subd. 8. [~~ELIGIBILITY FOR QUALIFIED DISABLED EXAMINATIONS.~~] The
25 commissioner shall establish alternative examination methods to assess the
26 ~~qualifications of applicants for a competitive open or competitive~~
27 ~~promotional examination who have a disability that does not prevent~~
28 ~~performance of the duties of the class but that cannot be accommodated in~~
29 ~~the regular examination process. Alternative examination methods offered~~
30 ~~must allow candidates for competitive open and competitive promotional~~
31 ~~exams to demonstrate possession of the same knowledge, skills, and~~
32 ~~abilities essential to satisfactory performance in the job class without~~
33 ~~compromising inferences about other candidates' qualifications.~~

34
35 Sec. 13. Minnesota Statutes 2002, section 43A.11, subdivision 5,
36 is amended to read:

37 Subd. 5. [~~DISABLED VETERAN; DEFINITIONS.~~] For the purpose of the
38 preference to be used in securing appointment from a ~~competitive open~~
39 ~~examination an applicant pool,~~ "disabled veteran" means a person who has a
40 compensable service connected disability as adjudicated by the United
41 States Veterans Administration, or by the retirement board of one of the
42 several branches of the armed forces, which disability is existing at the
43 time preference is claimed. For purposes of the preference to be used in
44 securing appointment from a competitive promotional examination, "disabled
45 veteran" means a person who, at the time of election to use a promotional
46 preference, is entitled to disability compensation under laws administered
47 by the Veterans Administration for a permanent service connected
48 disability rated at 50 percent or more.

49
50 Sec. 14. Minnesota Statutes 2002, section 43A.11, subdivision 7,
51 is amended to read:

52 Subd. 7. [~~RANKING OF VETERANS.~~] ~~An eligible with a rating~~
53 ~~augmented by veteran's preference shall be entered on an eligible list~~
54 ~~ahead of a nonveteran with the same rating. Applicants who meet the~~
55 minimum qualifications for a vacant position and claim disabled veteran's
56 preference shall be listed in the applicant pool ahead of all other
57 applicants. Applicants who meet the minimum qualifications for a vacant
58 position and claim nondisabled veteran's preference shall be listed in the
59 applicant pool after those claiming disabled veteran's preference and
60 ahead of nonveterans.

1
2 Sec. 15. Minnesota Statutes 2002, section 43A.11, subdivision 8,
3 is amended to read:

4 Subd. 8. [NOTIFICATION.] ~~A governmental agency~~ The commissioner or
5 an appointing authority, when notifying ~~eligibles~~ applicants that they
6 have passed examinations been accepted into the state's selection process,
7 shall show the final examination ratings preference credits and shall
8 notify eligibles applicants that they may elect to use veteran's
9 preference ~~to augment passing ratings.~~

10
11 Sec. 16. Minnesota Statutes 2002, section 43A.11, subdivision 9,
12 is amended to read:

13 Subd. 9. [REJECTION; EXPLANATION.] If the appointing authority
14 rejects a ~~certified eligible~~ member of the finalist pool who has ~~received~~
15 claimed veteran's preference, the appointing authority shall notify the
16 eligible finalist in writing of the reasons for the rejection.

17
18 Sec. 17. [43A.121] [RANKING OF THE APPLICANT POOL.]
19 Applicants referred from a layoff list shall be ranked as provided in the
20 collective bargaining agreement or plan established under section 43A.18,
21 under which the layoff list was established. All other names in an
22 applicant pool shall be ranked according to the veteran's preference
23 provisions of section 43A.11, subdivision 7, and then in descending order
24 of the number of skill matches for the vacant position. If any ties in
25 rank remain, those names shall appear in alphabetical order.

26
27 Sec. 18. Minnesota Statutes 2002, section 43A.15, subdivision 1,
28 is amended to read:

29 Subdivision 1. [GENERAL.] Positions in the classified service may
30 be filled other than by appointment from ~~eligible lists~~ a finalist pool
31 only as provided in this section or other law, provided that appointments
32 made pursuant to subdivisions 5, 6, ~~9,~~ 10, ~~11,~~ and 12, and 13 shall be
33 subject to applicable provisions of collective bargaining agreements.

34
35 Sec. 19. Minnesota Statutes 2002, section 43A.15, subdivision 2,
36 is amended to read:

37 Subd. 2. [EMERGENCY APPOINTMENTS.] An appointing authority may
38 make an emergency appointment for up to ~~30~~ 45 working days. ~~If necessary,~~
39 ~~the commissioner may grant an extension of the emergency appointment for~~
40 ~~15 additional working days.~~ No person may be employed in any one agency
41 on an emergency basis for more than 45 working days in any 12-month
42 period.

43
44 Sec. 20. Minnesota Statutes 2002, section 43A.15, subdivision 4,
45 is amended to read:

46 Subd. 4. [PROVISIONAL APPOINTMENTS.] The commissioner may
47 authorize an appointing authority to make a provisional appointment if
48 ~~there is an urgent reason for filling a vacancy and no person on an~~
49 ~~incomplete certification applicant~~ is suitable or available for
50 appointment, and No the person shall to be provisionally appointed unless
51 the person has passed an appropriate qualifying examination or is
52 qualified in all respects except for completion of a licensure or
53 certification requirement. To the extent possible, the commissioner shall
54 ensure that provisional appointments are kept to a minimum. No person
55 shall be employed on a provisional basis for more than six months unless
56 the commissioner grants an extension to a maximum of 12 months in the best
57 interest of the state. No extension may be granted beyond 12 months
58 except for persons provisionally appointed to physician positions or other
59 positions requiring licensure or certification where there is a lack of

1 eligibles applicants and the provisional appointee is continuing to work
2 to complete the licensure or certification requirement.

3 At the request of an appointing authority, the commissioner may
4 authorize the probationary appointment of a provisional appointee who has
5 performed satisfactorily for at least 60 days and has completed the
6 licensure or certification requirement.

7
8 Sec. 21. Minnesota Statutes 2002, section 43A.15, subdivision 7,
9 is amended to read:

10 Subd. 7. [APPOINTMENTS FOR UNCLASSIFIED INCUMBENTS OF NEWLY
11 CLASSIFIED POSITIONS.] The commissioner may authorize the probationary
12 appointment of an incumbent who has passed a qualifying ~~examination~~
13 selection process and who has served at least one year in an unclassified
14 position which has been placed in the classified service by proper
15 authority.

16
17 Sec. 22. Minnesota Statutes 2002, section 43A.15, subdivision 10,
18 is amended to read:

19 Subd. 10. [~~ROUTINE SERVICE AND ENTRY CLERICAL APPOINTMENTS.~~] The
20 commissioner may authorize the administration of a qualifying selection
21 process if a class is of a routine, service nature involving unskilled
22 tasks, the performance of which cannot be directly related to
23 qualifications beyond a minimum competency level. ~~The commissioner may~~
24 ~~also authorize the administration of qualifying skill tests for entry~~
25 ~~level clerical positions as an alternative to certification from an~~
26 ~~eligible list as provided in section 43A.13.~~

27
28 Sec. 23. Minnesota Statutes 2003 Supplement, section 43A.15,
29 subdivision 14, is amended to read:

30 Subd. 14. [ON-THE-JOB DEMONSTRATION ~~EXAMINATION PROCESS~~ AND
31 APPOINTMENT.] The commissioner shall establish qualifying procedures for
32 ~~candidates applicants~~ whose disabilities are of such a severe nature that
33 the ~~candidates applicants~~ are unable to demonstrate their abilities in
34 ~~competitive and qualified disabled examination processes~~ the selection
35 process. The qualifying procedures must consist of up to 700 hours on-
36 the-job trial work experience ~~which will be in lieu of a competitive~~
37 ~~examination and~~ for which the disabled person has the option of being paid
38 or unpaid. Up to three persons with severe disabilities and their job
39 coach may be allowed to demonstrate their job competence as a unit through
40 the on-the-job trial work experience ~~examination~~ selection procedure.
41 This ~~work experience on-the-job demonstration process~~ must be limited to
42 ~~candidates for appointment, promotion, or transfer applicants for which~~
43 ~~whom~~ there is no reasonable accommodation in the ~~examination selection~~
44 process. The commissioner may authorize the probationary appointment of a
45 ~~candidate~~ an applicant based on the request of the appointing authority
46 that documents that the ~~candidate applicant~~ has successfully demonstrated
47 qualifications for the position through completion of an on-the-job trial
48 work experience. The implementation of this subdivision may not be deemed
49 a violation of chapter 43A or 363A.

50
51 Sec. 24. Minnesota Statutes 2002, section 43A.15, subdivision 15,
52 is amended to read:

53 Subd. 15. [REINSTATEMENT.] An appointing authority may directly
54 reinstate a person who is a former permanent or probationary employee of
55 the job class, within four years of separation from the class. The four-
56 year limitation does not apply to former permanent or probationary
57 employees of the class who are receiving disability benefits under a state
58 retirement plan.

59

1 Sec. 25. Minnesota Statutes 2002, section 43A.16 subdivision 1, is
2 amended to read:

3 Subdivision 1. [GENERAL.] All unlimited appointments to positions
4 in the classified service except as provided in this subdivision shall be
5 for a probationary period the duration of which shall be determined
6 through collective bargaining agreements or plans established pursuant to
7 section 43A.18 but which shall not be less than 30 days of full-time
8 equivalent service nor more than two years of full-time equivalent
9 service. An appointing authority may require a probationary period for
10 transfers, ~~reemployments~~, reinstatements, voluntary demotions, and
11 appointments from layoff lists of former employees of a different
12 appointing authority. For employees in a bargaining unit as defined in
13 section 179A.10 the requirement of such a probationary period shall be
14 subject to applicable provisions of collective bargaining agreements.
15

16 Sec. 26. Minnesota Statutes 2002, section 43A.191, subdivision 3,
17 is amended to read:

18 Subd. 3. [AUDITS; SANCTIONS AND INCENTIVES.]

19 (a) The commissioner shall annually audit the record of each agency
20 to determine the rate of compliance with affirmative action requirements.

21 (b) By March 1 of each odd-numbered year, the commissioner shall
22 submit a report on affirmative action progress of each agency and the
23 state as a whole to the governor and to the Finance Committee of the
24 senate, the Ways and Means Committee of the house of representatives, the
25 Governmental Operations Committees of both houses of the legislature, and
26 the Legislative Coordinating Commission ~~on Employee Relations~~. The report
27 must include noncompetitive appointments made under section 43A.08,
28 subdivision 2a, or 43A.15, subdivisions 3 to ~~13~~ 7, 10, and 12, and cover
29 each agency's rate of compliance with affirmative action requirements.
30

31 (c) An agency that does not meet its hiring goals must justify its
32 nonaffirmative action hires in competitive and noncompetitive appointments
33 according to criteria issued by the Department of Employee Relations.
34 "Missed opportunity" includes failure to justify a nonaffirmative action
35 hire. An agency must have 25 percent or less missed opportunities in
36 competitive appointments and 25 percent or less missed opportunities in
37 appointments made under sections 43A.08, subdivisions 1, clauses (9),
38 (11), and (16); and 2a; and 43A.15, subdivisions 3 to 7, 10, 12, and 13.
39 In addition, an agency shall:

40 (1) demonstrate a good faith effort to recruit protected group
41 members by following an active recruitment plan;

42 (2) implement a coordinated retention plan; and

43 (3) have an established complaint resolution procedure.

44 (d) The commissioner shall develop reporting standards and
45 procedures for measuring compliance.

46 (e) An agency is encouraged to develop other innovative ways to
47 promote awareness, acceptance, and appreciation for diversity and
48 affirmative action. These innovations will be considered when evaluating
49 an agency's compliance with this section.

50 (f) An agency not in compliance with affirmative action
51 requirements of this section must identify methods and programs to improve
52 performance, to reallocate resources internally in order to increase
53 support for affirmative action programs, and to submit program and
54 resource reallocation proposals to the commissioner for approval. An
55 agency must submit these proposals within 120 days of being notified by
56 the commissioner that it is out of compliance with affirmative action
57 requirements. The commissioner shall monitor quarterly the affirmative
58 action programs of an agency found to be out of compliance.

1 (g) The commissioner shall establish a program to recognize an
2 agency that has made significant and measurable progress in implementing
3 an affirmative action plan.
4

5 Sec. 27. Minnesota Statutes 2002, section 43A.36, subdivision 1,
6 is amended to read:

7 Subdivision 1. [COOPERATION; STATE AGENCIES.] The commissioner may
8 delegate administrative functions associated with the duties of the
9 commissioner to appointing authorities who have the capability to perform
10 such functions when the commissioner determines that it is in the best
11 interests of the state civil service. The commissioner shall consult with
12 agencies and agencies shall cooperate as appropriate in implementation of
13 this chapter. The commissioner, in conjunction with appointing
14 authorities, shall analyze and assess current and future human resource
15 requirements of the civil service and coordinate personnel actions
16 throughout the civil service to meet the requirements. The commissioner
17 shall ~~permit appointing authorities to use eligible lists in making~~
18 ~~appointments to positions in the unclassified service and shall provide~~
19 ~~recruiting assistance and make the applicant database available to~~
20 ~~appointing authorities to use in making appointments to positions in the~~
21 ~~unclassified service.~~ The head of each agency in the executive branch
22 shall designate an agency personnel officer. The agency personnel officer
23 shall be accountable to the agency head for all personnel functions
24 prescribed by laws, rules, collective bargaining agreements, the
25 commissioner and the agency head. Except when otherwise prescribed by the
26 agency head in a specific instance, the personnel officer shall be assumed
27 to be the authority accountable to the agency head over any other officer
28 or employee in the agency for personnel functions.

29 The head of each agency in the executive branch shall designate an
30 affirmative action officer who shall have primary responsibility for the
31 administration of the agency's affirmative action plan. The officer shall
32 report directly to the head of the agency on affirmative action matters.
33

34 Sec. 28. Minnesota Statutes 2002, section 43A.39, subdivision 1,
35 is amended to read:

36 Subdivision 1. [PROHIBITED ACTS; PENALTIES.] All employees shall
37 comply with and aid in all proper ways the enforcement of the provisions
38 of this chapter. No employee or any other person shall intentionally:

39 (a) Make any false oral or written statement, mark, rating or
40 report concerning any application, ~~examination, certification selection~~
41 ~~process,~~ or appointment made under provisions of this chapter or in any
42 manner commit or attempt to commit any fraud preventing the impartial
43 execution of this chapter;

44 (b) Directly or indirectly, give, render, pay, offer, solicit, or
45 accept any money, service or other valuable consideration for any
46 appointment, proposed appointment, promotion or proposed promotion to, or
47 any advantage in obtaining, a position in the civil service;

48 (c) Defeat, deceive, or obstruct any person in exercising rights to
49 ~~examination, eligibility, certification or appointment~~ under this chapter,
50 or furnish to any person any special or secret information for the purpose
51 of affecting the rights or prospects of any person with respect to
52 appointment, advancement or retention in the classified service;

53 (d) Violate the provisions of section 43A.37 or 43A.38; or

54 (e) If in the classified service, engage in activities prohibited
55 by section 43A.32.
56

57 Sec. 29. Minnesota Statutes 2002, section 197.455, is amended to
58 read: 197.455 [~~STATE LAW APPLICABLE~~ VETERAN'S PREFERENCE APPLIED.]

59 Subdivision 1. [APPLICATION.] ~~The provisions of section 43A.11~~
60 ~~granting preference to veterans in the state civil service~~ This section

1 shall also govern preference of a veteran under the civil service laws,
2 charter provisions, ordinances, rules or regulations of a county, city,
3 town, school district, or other municipality or political subdivision of
4 this state, ~~except that a notice of rejection stating the reasons for~~
5 ~~rejection of a qualified veteran shall be filed with the appropriate local~~
6 ~~personnel officer.~~ Any provision in a law, charter, ordinance, rule or
7 regulation contrary to the applicable provisions of this section 43A.11 is
8 void to the extent of such inconsistency. Sections 197.46 to 197.48 shall
9 not apply to state civil service.

10 Subd. 2. [CREATION.] Recognizing that training and experience in
11 the military services of the government and loyalty and sacrifice for the
12 government are qualifications of merit which cannot be readily assessed by
13 examination, a veteran's preference shall be available to a veteran as
14 defined in section 197.447.

15 Subd. 3. [RESTRICTIONS.] Veteran's preference credit under this
16 section may not be used by any veteran who is currently receiving or is
17 eligible to receive a monthly veteran's pension based exclusively on
18 length of military service.

19 Subd. 4. [NONDISABLED VETERAN'S CREDIT.] There shall be added to
20 the competitive open examination rating of a nondisabled veteran, who so
21 elects, a credit of five points provided that the veteran obtained a
22 passing rating on the examination without the addition of the credit
23 points.

24 Subd. 5. [DISABLED VETERAN'S CREDIT.] There shall be added to the
25 competitive open examination rating of a disabled veteran, who so elects,
26 a credit of ten points provided that the veteran obtained a passing rating
27 on the examination without the addition of the credit points. There shall
28 be added to the competitive promotional examination rating of a disabled
29 veteran, who so elects, a credit of five points provided that

30 (1) the veteran obtained a passing rating on the examination
31 without the addition of the credit points; and (2) the veteran is applying
32 for a first promotion after securing public employment.

33 Subd. 6. [DISABLED VETERAN; DEFINITIONS.] For the purpose of the
34 preference to be used in securing appointment from a competitive open
35 examination, "disabled veteran" means a person who has a compensable
36 service-connected disability as adjudicated by the United States Veterans
37 Administration, or by the retirement board of one of the several branches
38 of the armed forces, which disability is existing at the time preference
39 is claimed. For purposes of the preference to be used in securing
40 appointment from a competitive promotional examination, "disabled veteran"
41 means a person who, at the time of election to use a promotional
42 preference, is entitled to disability compensation under laws administered
43 by the Veterans Administration for a permanent service-connected
44 disability rated at 50 percent or more.

45 Subd. 7. [PREFERENCE FOR SPOUSES.] A preference available pursuant
46 to this section may be used by the surviving spouse of a deceased veteran
47 and by the spouse of a disabled veteran who because of the disability is
48 unable to qualify.

49 Subd. 8. [RANKING OF VETERANS.] An eligible with a rating
50 augmented by veteran's preference shall be entered on an eligible list
51 ahead of a nonveteran with the same rating.

52 Subd. 9. [NOTIFICATION.] A governmental agency, when notifying
53 eligibles that they have passed examinations, shall show the final
54 examination ratings and preference credits and shall notify eligibles that
55 they may elect to use veteran's preference to augment passing ratings.

56 Subd. 10. [REJECTION; EXPLANATION.] If the appointing authority
57 rejects a certified eligible who has received veteran's preference, the
58 appointing authority shall notify the eligible in writing of the reasons
59 for the rejection and file the notice with the appropriate local personnel
60 officer.