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.

John Ostrem
Mary Jacquart
Jerry Janezich
Melissa Fahning
Bernie Omann
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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 | Omnibus K-12 Education Policy Bill | Language Page
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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
OMNIBUS K-12 EDUCATION POLICY BILL
H.F. 1793 (Chapter 294)

ARTICLE 2
ACADEMIC EXCELLENCE

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

Subd. 4. [LICENSE AND RULES.]
(a) The board must adopt rules to license public school teachers and interns subject to chapter 14.
(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board-approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.
(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a postsecondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a postsecondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.
(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.
(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective on the dates determined by the board but not later than September 1, 2001.
(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.
(g) The board must grant licenses to interns and to candidates for initial licenses.
(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.
(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.
(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.
(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.
In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

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

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

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

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

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

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

1. documentation of student achievement as evidenced by norm-referenced test results that are objective and psychometrically valid and reliable;
2. evidence of local, state, or national activities, recognition, or awards for professional contribution to achievement;
3. description of teaching experience in the teachers' core subject area in a public school under a waiver, variance, limited license or other exception; nonpublic school; and postsecondary institution;
4. test results from the Praxis II content test;
5. evidence of advanced certification from the National Board for Professional Teaching Standards;
6. evidence of the successful completion of course work or pedagogy courses; and
7. evidence of the successful completion of high quality professional development activities. Districts must assign a school administrator to serve as a HOUSSE reviewer to meet with teachers under this paragraph and, where appropriate, certify the teachers' applications. Teachers satisfy the definition of highly qualified when the teachers receive at least 100 of the total number of points used to measure the teachers' content expertise under clauses (1) to (7). Teachers may acquire up to 50 points only in any one clause (1) to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified for more than one subject area.
(c) Achievement of the HOUSSE criteria is not equivalent to a license. A teacher must obtain permission from the Board of Teaching in order to teach in a public school.

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

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

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

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<td>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.</td>
<td>18</td>
</tr>
<tr>
<td>8</td>
<td>Eligibility. This section adds other unclassified excluded employees in eligibility for the supplemental retirement plan.</td>
<td>18</td>
</tr>
<tr>
<td>10</td>
<td>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.</td>
<td>19</td>
</tr>
</tbody>
</table>

**ARTICLE 2** Covered Salary Definition

<table>
<thead>
<tr>
<th>Section</th>
<th>Omnibus Pension Bill</th>
<th>Language Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>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.</td>
<td>19</td>
</tr>
<tr>
<td>3</td>
<td>Same provision as Section 1 but for PERA.</td>
<td>19</td>
</tr>
<tr>
<td>4</td>
<td>Same provision as Section 1 but for TRA.</td>
<td>20</td>
</tr>
<tr>
<td>5</td>
<td>Same provision as Section 1 but for TRA-First Class Cities plans.</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>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.</td>
<td>22</td>
</tr>
<tr>
<td>9</td>
<td>Effective Date. Sections 1 and 3 are effective on July 1, 2004. Section 4 and 5 are effective on the day following final enactment.</td>
<td>22</td>
</tr>
</tbody>
</table>
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.

9 Effective Date. Effective on July 1, 2004.

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.

3 Member Contribution Rate. This section increases employee contributions to IRAP for Administrators only. There is no increase to the employer contribution.

4 Technical changes to IRAP.

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.

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.

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.

6 Effective Date. These sections are effective on July 1, 2004.

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

ARTICLE 1
MEMBERSHIP ISSUES

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

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

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

Subd. 2. [TEACHER.] (a) "Teacher" means:
   (1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of a city of the first class, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, and not including the members or officers of any general governing or managing board or body;
   (2) an employee of the Teachers Retirement Association;
   (3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or
   (4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the Board of Trustees of the Minnesota State Colleges and Universities system in an unclassified position as:
      (i) a president, vice-president, or dean;
      (ii) a manager or a professional in an academic or an academic support program other than specified in item (i);
      (iii) an administrative or a service support faculty position; or
      (iv) a teacher or a research assistant.
   (b) "Teacher" does not mean:
      (1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;
      (2) a person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal
Comprehensive Employment and Training Act from and after March 30, 1978, unless the person has, as of the later of March 30, 1978, or the date of employment, sufficient service credit in the retirement association to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the Federal Comprehensive Training and Employment Act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution;

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

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

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

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

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

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

Subd. 4. [COVERED EMPLOYMENT.]
(a) "Covered employment" means employment by a person eligible for coverage by this retirement program under section 354B.21 in a faculty position or in an eligible unclassified administrative position.
(b) "Covered employment" does not mean employment specified in paragraph (a) by a faculty member employed in a state university or a community college in the Minnesota State Colleges and Universities system if the person's initial appointment is specified as constituting less than 25 percent of a full academic year, exclusive of summer session, for the applicable institution.

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

Subd. 6. [ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.]
"Eligible unclassified administrative position" means the following:
(1) the chancellor of the board;
(2) a president of a state college or university;
(3) an excluded administrator employed in a state university or college, by the board, or by the Higher Education Services Office;
or
(4) other managers and professionals in academic and academic support programs in the unclassified service employed in a state university or college, by the board, or by the Higher Education Services Office.

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

Subd. 2. [ELIGIBILITY.]
(a) An individual must participate in the supplemental retirement plan if the individual is employed by the Board of Trustees in the unclassified service of the state and has completed at least two years with a full-time contract of applicable unclassified employment with the board or an applicable predecessor board in any of the positions specified in paragraph (b).
(b) Eligible positions or employment classifications are:
(1) an unclassified administrative position as defined in section 354B.20, subdivision 6;
(2) an employment classification included in one of the following collective bargaining units under section 179A.10, subdivision 2:
   (i) the state university instructional unit;
   (ii) the state college instructional unit; and
   (iii) the state university administrative unit; or
(3) an unclassified employee of the board:
   (i) included in the general professional unit or the supervisory employees unit under section 179A.10, subdivision 2; or
   (ii) an employee who is excluded from one of those units due to the employee's confidential status under section 179A.10, subdivision 1, clause (8).

Sec. 10. [EFFECTIVE DATE.]
(a) Sections 2 to 6 and 9 are effective on July 1, 2004.
(b) Section 7 is effective on July 1, 2004, and applies retroactively to the date of hire of the applicable person in the affected position.
(c) Section 8 is effective retroactively to July 1, 2001.

ARTICLE 2
COVERED SALARY DEFINITION

Section 1. Minnesota Statutes 2002, section 352.01, subdivision 13, is amended to read:
 Subd. 13. [SALARY.]
 (a) "Salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.
 (b) "Salary" does not include:
 (1) lump sum sick leave payments;
 (2) severance payments;
 (3) lump sum annual leave payments and overtime payments made at the time of separation from state service;
 (4) payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage, and;
 (5) payments made as an employer-paid fringe benefit;
 (6) workers' compensation payments;
 (7) employer contributions to a deferred compensation or tax sheltered annuity program and
 (8) amounts contributed under a benevolent vacation and sick leave donation program are not salary.
 (c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Section 3. Minnesota Statutes 2002, section 353.01, subdivision 10, is amended to read:
 Subd. 10. [SALARY.]
 (a) "Salary" means:
 (1) the periodic compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees; and
 (2) for a public employee who has prior service covered by
a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies and who has elected coverage either under the public employees police and fire fund benefit plan under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodic compensation of the public employee after the effective date of consolidation.

(b) Salary does not mean:

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

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

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

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

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

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

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

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

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

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

Subd. 35. [SALARY.]

(a) "Salary" means the periodic compensation, upon which member contributions are required
before deductions for deferred compensation, supplemental
retirement plans, or other voluntary salary reduction programs.
(b) "Salary" does not mean:
(1) lump sum annual leave payments;
(2) lump sum wellness and sick leave payments;
(3) employer-paid amounts used by an employee toward the
cost of insurance coverage, employer-paid fringe benefits,
flexible spending accounts, cafeteria plans, health care expense
accounts, day care expenses, or any payments in lieu of any
employer-paid group insurance coverage, including the difference
between single and family rates that may be paid to a member
with single coverage and certain amounts determined by the
executive director to be ineligible;
(4) any form of payment made in lieu of any other
employer-paid fringe benefit or expense;
(5) any form of severance payments;
(6) workers' compensation payments;
(7) disability insurance payments, including self-insured
disability payments;
(8) payments to school principals and all other
administrators for services that are in addition to the normal
work year contract if these additional services are performed on
an extended duty day, Saturday, Sunday, holiday, annual leave,
sick leave day, or any other nonduty day;
(9) payments under section 356.24, subdivision 1, clause
(4); and
(10) payments made under section 122A.40, subdivision 12,
except for payments for sick leave that are accumulated under
the provisions of a uniform school district policy that applies
equally to all similarly situated persons in the district.
(c) Amounts provided to an employee by the employer through
a grievance proceeding or a legal settlement are salary only if
the settlement is reviewed by the executive director and the
amounts are determined by the executive director to be
consistent with paragraph (a) and prior determinations.

Sec. 5. Minnesota Statutes 2002, section 354A.011, subdivision 24,
is amended to read:
Subd. 24. [SALARY; COVERED SALARY.]
(a) "Salary" or "covered salary" means the entire compensation,
upon which member contributions are required and made, that is paid to a
teacher before deductions for deferred compensation, supplemental
retirement plans, or other voluntary salary reduction programs.
(b) "Salary" does not mean:
(1) lump sum annual leave payments;
(2) lump sum wellness and sick leave payments;
(3) employer-paid amounts used by an employee toward the cost of
insurance coverage, employer-paid fringe benefits, flexible spending
accounts, cafeteria plans, health care expense accounts, day care
expenses, or any payments in lieu of any employer-paid group insurance
coverage, including the difference between single and family rates that
may be paid to a member with single coverage, and certain amounts
determined by the executive secretary or director to be ineligible;
(4) any form of payment that is made in lieu of any other employer-
paid fringe benefit or expense;
(5) any form of severance payments;
(6) workers' compensation payments;
(7) disability insurance payments, including self-insured
disability payments;
(8) payments to school principals and all other administrators for services that are in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;
(9) payments under section 356.24, subdivision 1, clause(4)(ii);
and
(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.
(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 1, is amended to read:
Subdivision 1. [STATE SALARY LIMITATIONS.]
(a) Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 95 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.
(b) This section does not apply to a salary paid:
(1) to the governor or to a judge;
(2) to an employee of a political subdivision in a position that is excluded from the limit as specified under section 43A.17, subdivision 9; or
(3) to a state employee in a position for which the commissioner of employee relations has approved a salary rate that exceeds 95 percent of the governor's salary as defined under section 43A.02, subdivision 21;
(4) to an employee of Gillette Hospital who is covered by the general state employees retirement plan of the Minnesota State Retirement System;
(5) to an employee of the Minnesota Crop Improvement Council; or
(6) to an employee of the Minnesota Historical Society.
(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter.

Sec. 9. [EFFECTIVE DATE.]
(a) Sections 1, 2, 3, 7, and 8 are effective on July 1, 2004.
(b) Sections 4 and 5 are effective on the day following final enactment.
(c) 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.
(a) In computing service credit, no teacher shall receive credit for more than one year of teaching service for any fiscal year.
Commencing July 1, 1961:
(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;
(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;
(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and
(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year as the period of service performed bears to 170 days.
(b) A teacher shall receive a full year of service credit based on the number of days in the employer's full school year if it is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.
(c) A teacher does must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.
(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:
(1) for full-time employees, by the definition of full time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;
(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and
(3) in no case may a member receive more than one year of service credit for any fiscal year.

Sec. 9. [EFFECTIVE DATE.] Sections 1 to 8 are effective on July 1, 2004.
credit of the member shall must be prorated pursuant to under section 354.05, subdivision 25, clause (3).

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

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

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

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

Subdivision 1. [MEMBER CONTRIBUTION RATE.]
(a) Except as provided in paragraph (b), the member contribution rate for participants in the individual retirement account plan is 4.5 percent of salary. (b) For participants in the individual retirement account plan who were otherwise eligible to elect retirement coverage in the state unclassified employees retirement program, the member contribution rate is the rate specified in section 352D.04, subdivision 2, paragraph (a).

Sec. 4. Minnesota Statutes 2002, section 354B.32, is amended to read: 354B.32 [TRANSFER OF FUNDS TO IRAP.]
A participant in the individual retirement account plan established in this chapter who has less than ten years of allowable service under the Teachers Retirement Association or the teachers retirement fund association, whichever applies, may elect to transfer an amount equal to the participant's accumulated member contributions to the Teachers Retirement Association or the applicable teachers retirement fund association, plus compound interest at the rate of six percent per annum, to the individual retirement account plan. The transfers are irrevocable fund-to-fund transfers, and, in no event, may the participant receive direct payment of the money transferred prior to retirement before the termination of employment. If a participant elects the contribution transfer, all of the participant's allowable and formula service credit in the Teachers Retirement Association or the teachers retirement fund association associated with the transferred amount is forfeited. The executive director of the Teachers Retirement Association and the chief administrative officers of the teachers retirement fund associations, in cooperation with the chancellor of the Minnesota State Colleges and Universities system, shall notify participants who are eligible to transfer of their right to transfer and the amount that they are eligible to transfer, and shall, upon request, provide forms to implement the transfer. The chancellor of the Minnesota State Colleges and Universities system shall assist the Teachers Retirement Association and the teachers retirement fund associations in developing transfer forms and in implementing the transfers. Authority to elect a transfer under this section expires on July 1, 2004.

Sec. 5. [EFFECTIVE DATE; RETROACTIVE APPLICATION.]
(a) Section 2 is effective on July 1, 2004.
(b) Section 2 applies to shortages in member deductions that occurred before the effective date of the section.
(c) Sections 1, 3, and 4 are effective on July 1, 2004.

ARTICLE 6
REPORTING AND INFORMATION PROVISION

Section 1. Minnesota Statutes 2002, section 354.07, subdivision 9, is amended to read:
Subd. 9. [INFORMATION DISTRIBUTION.] All school districts, the Minnesota State Colleges and Universities, community colleges and other employers of members of the association are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing association information which are prepared by the executive director or the board and are delivered to the employers for distribution.

Sec. 3. Minnesota Statutes 2002, section 354.52, is amended by adding a subdivision to read:
Subd. 4c. [MNSCU SERVICE CREDIT REPORTING.] For all part-time service rendered on or after July 1, 2004, the service credit reporting requirement in subdivision 4b for all part-time employees of the Minnesota State Colleges and Universities system must be met by the Minnesota State...
Colleges and Universities system reporting to the association on or before July 31 of each year the final calculation of each part-time member's service credit for the immediately preceding fiscal year based on the employee's assignments for the fiscal year.

Sec. 6. [EFFECTIVE DATE.]
(a) Sections 1 to 4 are effective on July 1, 2004.
(b) Section 5 is effective retroactively to July 1, 2003, and expires when the requirement that the Legislative Commission on Pensions and Retirement retain a consulting actuary to perform annual actuarial valuations of retirement plans terminates.

ARTICLE 11
HEALTH CARE SAVINGS
PLAN MODIFICATIONS

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

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

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

Subd. 3. [CONTRIBUTIONS.]
(a) Contributions to the plan shall be determined through a personnel policy or in a collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit. The Minnesota State Retirement System may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employee units.
(b) Contributions to the plan by or on behalf of the employee shall be held in trust for reimbursement of employee and dependent health-related expenses following retirement from public employment or during active employment. The Minnesota State Retirement System shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The Minnesota State Retirement System shall make available a limited range of investment options, and each employee may direct the investment of the accumulations in the employee's account among the investment options made available by the Minnesota State Retirement System. At the request of a participating employer and employee group, the Minnesota State Retirement System may determine how the assets of the affected employer and employee group should be invested.
(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a postretirement or active employee health care savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the
intent of the legislature to authorize the state to incur new funding
obligations for the costs of retiree health care or the costs of
administering retiree health care plans or accounts.

Subd. 4. [REIMBURSEMENT FOR HEALTH-RELATED EXPENSES.] Following termination of public service, the Minnesota State Retirement System shall reimburse employees at least quarterly for submitted health-related expenses, as required by federal and state law, until the employee exhausts the accumulation in the employee's account. If an employee dies prior to exhausting the employee's account balance, the employee's spouse or dependents shall be eligible to be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account shall must be paid to the employee's beneficiaries or, if none, to the employee's estate.

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

Subd. 6. [ADVISORY COMMITTEE.] (a) The Minnesota State Retirement System shall establish a participant advisory committee for the health care savings plan, made up of one representative appointed by each employee unit participating in the plan. Each participating unit shall be responsible for the expenses of its own representative.

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

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

Sec. 2. [EFFECTIVE DATE.] Section 1 is effective on the day 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.

<table>
<thead>
<tr>
<th>Section</th>
<th>State Employee Labor Agreement Ratification</th>
<th>Language Page</th>
</tr>
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</table>
| 1       | 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:  
Subd. 1. AFSCME. American Federation of State County and Municipal Employees, Council 6.  
Subd. 2. MAPE. Minnesota Association of Professional Employees.  
Subd. 3. Commissioner's plan. Commissioner of employee relations for non-managerial state employees who are not represented by a union.  
Subd. 5. MnSCU Administrators. Personnel plan for MnSCU administrators who are not represented by a union.  
Subd. 7. MSUAASF. Minnesota State University Association of Administrative and Service Faculty.  
Subd. 8. MSCF. Minnesota State College Faculty.  
Subd. 10. MMA. Middle Management Association. | 31 |
| 2       | Effective Date. Section 1 is effective the day following final enactment. | 31 |
STATE EMPLOYEE LABOR AGREEMENT RATIFICATION
S.F. 1866 (Chapter 296)

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

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

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

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

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

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

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

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

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

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

Sec. 2. [EFFECTIVE DATE.]
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.

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<tr>
<th>Section</th>
<th>Veterans Benefits Bill</th>
<th>Language Page</th>
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<tbody>
<tr>
<td>3</td>
<td>Article 1: 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.</td>
<td>35</td>
</tr>
<tr>
<td>9</td>
<td>Article 1: Effective Date. Section 3 is effective July 1, 2004.</td>
<td>36</td>
</tr>
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</table>
VETERANS BENEFITS BILL
H.F. 2166 (Chapter 256)

ARTICLE 1

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

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

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

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

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

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

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

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

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

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

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

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

(d) Tuition and textbook reimbursement grants received under this subdivision may not be considered by the Minnesota Higher Education Services Office or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.131.

(e) If a member fails to complete a term of enlistment during which a tuition and textbook reimbursement grant was paid, the adjutant general may seek to recoup a prorated amount as determined by the adjutant general.
Sec. 9. [EFFECTIVE DATE.]

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  
Help America Vote Act  
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.

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.

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.

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

ARTICLE 1
HAVA COMPLIANCE

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

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

For purposes of this section, mail registration is defined 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.

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

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

"I certify that I:
(1) will be at least 18 years old on election day;
(2) am a citizen of the United States;
(3) will have resided in Minnesota for 20 days immediately preceding election day;
(4) maintain residence at the address given on the registration form;
(5) am not under court-ordered guardianship of the person where I have not retained the right to vote;
(6) have not been found by a court to be legally incompetent to vote;
(7) have not been convicted of a felony without having my civil rights restored; and
(8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than $10,000, or both."

The certification must include boxes for the voter to respond to the following questions:
"(1) Are you a citizen of the United States?" and
"(2) Will you be 18 years old on or before election day?"
And the instruction:
"If you checked 'no' to either of these questions, do not complete this form."

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

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

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

Subd. 2. [INSTRUCTIONS.] A registration card application shall be accompanied by instructions specifying the manner and method of registration, the qualifications for voting, the penalties for false registration, and the availability of registration and voting assistance for elderly and handicapped individuals and residents of health care facilities and hospitals. The instructions 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. If, prior to election day, a person requests the instructions in Braille, on cassette tape, or in a version printed in 16-point bold type with heavy 24-point leading, the county auditor shall provide them in the form requested. The secretary of state shall prepare Braille and cassette copies and make them available.

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

Subd. 3. [DEFICIENT REGISTRATION.] No voter registration application is deficient if it contains the voter's name, address, date of birth, current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification number, the last four digits of the voter's Social Security number, if the voter has been issued a Social Security number, prior registration, if any, and signature. The absence of a zip code number does not cause the registration to be 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. The election judges shall request an individual to correct a voter registration card application if it is deficient or illegible or if the name or number of the voter's school district is missing or obviously incorrect. No eligible voter may be prevented from voting unless the voter's registration card application is deficient or the voter is duly and successfully challenged in accordance with section 201.195 or 204C.12.

A voter registration card application accepted prior to August 1, 1983, is not deficient for lack of date of birth. The county or municipality may attempt to obtain the date of birth for a voter registration card application accepted prior to August 1, 1983, by a request to the voter at any time except at the polling place. Failure by
the voter to comply with this request does not make the registration deficient.

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

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<td>ARTICLE 1</td>
<td>Sale and Disposition of Surplus Lands</td>
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<tr>
<td>2</td>
<td>Sale and Disposition of Surplus State-Owned Land.</td>
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</tr>
<tr>
<td>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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td></td>
<td></td>
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<tr>
<td>33</td>
<td>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.</td>
<td>45</td>
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<tr>
<td>41</td>
<td>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.</td>
<td>46</td>
</tr>
<tr>
<td>42</td>
<td>Effective Date. All sections are effective August 1, 2004.</td>
<td>46</td>
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STATE LANDS BILL
H.F. 2334 (Chapter 262)

ARTICLE 1
SALE AND DISPOSITION OF SURPLUS LANDS

Sec. 2. [16B.281] [SALE AND DISPOSITION OF SURPLUS STATE-OWNED LAND.]
Subd. 2. [CERTIFICATION REQUIRED.] On or before July 1 of each year, the head of each department or agency having control and supervision over any state-owned land, the sale or disposition of which is not otherwise provided for by law, shall certify in writing to the commissioner whether there is any state-owned land under control and supervision of that department or agency that is no longer needed. If the certification discloses lands no longer needed for a department or agency, the head of the department or agency shall include in the certification a description of the lands and the reasons why the lands are no longer needed.

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

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

Sec. 33. Minnesota Statutes 2002, section 94.09, subdivision 3, is amended to read:
Subd. 3. [NOTICE TO AGENCIES; DETERMINATION OF SURPLUS.] On or before October 1 of each year, the commissioner of administration shall review the certifications of heads of each department or agency provided for in this section. The commissioner of natural resources shall send written notice to all state departments, agencies and the University of Minnesota describing any lands or tracts which may be declared surplus. If a department or agency or the University of Minnesota desires custody of the lands or tracts, it shall submit a written request to the commissioner, no later than four calendar weeks after mailing of the notice, setting forth in detail its reasons for desiring to acquire, and its intended use of, the land or tract. The commissioner of
administration shall then determine whether any of the lands described in
the certifications of the heads of the departments or agencies should be
declared surplus and offered for sale or otherwise disposed of by
transferring custodial control to other requesting state departments or
agencies or to the Board of Regents of the University of Minnesota for
educational purposes, provided however that transfer to the Board of
Regents shall not be determinative of tax exemption or immunity. If the
commissioner determines that any of such lands are no longer needed
for state purposes, the commissioner shall make findings of fact, describe
the lands, declare such lands to be surplus state land, and state the
reasons for the sale or disposition thereof, and notify the state
Executive Council of such determination of the lands.

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

Sec. 42.  [EFFECTIVE DATE.] Sections 1 to 41 are effective August
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.

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<th>Section</th>
<th>Telecommunications Systems</th>
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<td>Multistation or PBX System. This section references a multiline telephone system instead of the original language of a telecommunications system.</td>
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<td>3</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>4</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>5</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>6</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>7</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>8</td>
<td>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.</td>
<td>49</td>
</tr>
<tr>
<td>9</td>
<td>Multiline Telephone System 911 Requirements.</td>
<td>50</td>
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</table>
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.


**Effective Date.** All sections are effective the day following final enactment.
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) telecommunication 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.
(b) A wire line telecommunications service provider is not liable to any person for the good faith release to emergency communications personnel of information not in the public record, including, but not limited to, nonpublished or nonlisted telephone numbers.

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

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

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

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

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

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

1. automatic location identification for each respective emergency response location;
2. the 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.

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

Subd. 7. [EXEMPTIONS.]

(a) Multiline telephone systems with a single emergency response location are exempt from subdivisions 1 and 3 to 6 and section 403.07, subdivision 3.
(b) Multiline telephone system operators that employ alternative methods of enhanced 911 support are exempt from subdivisions 1 and 3 to 6 and section 403.07, subdivision 3.

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

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

Sec. 11. [EFFECTIVE DATE.] 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.

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<td>2</td>
<td>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.</td>
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<td>3</td>
<td>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.</td>
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<td>4</td>
<td>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.</td>
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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 |
SPECIAL REVENUE FUND ACCOUNTS
H.F. 2446 (Chapter 284)

ARTICLE 1
SPECIAL REVENUE ACCOUNTS

Sec. 2. Minnesota Statutes 2002, section 16A.53, is amended by adding a subdivision to read:
Subd. 3. [COMMISSIONER TO MANAGE FUNDS AND ACCOUNTS.]
(a) As necessary, the commissioner may eliminate an account that is no longer needed for the purposes specified for it in law.
(b) The commissioner must eliminate an account that meets the criteria in paragraph (c) unless the commissioner determines that the account is necessary for efficient fiscal operation.
(c) Criteria for account elimination are:
(1) receipts to the account and transfers into the account average less than $1,000 per year in the past four years;
(2) year-end balances in the past four years average less than $1,000 per year;
(3) the account has been in existence for at least four years.
(d) Any balances in an eliminated account must be transferred to the general fund unless some other disposition is specified in law. If the commissioner eliminates an account established in law, the commissioner must notify the legislature, in a report to the appropriate finance committees, of the elimination.

Sec. 3. Minnesota Statutes 2002, section 16A.53, is amended by adding a subdivision to read:
Subd. 4. [REPORT.] Each agency that manages accounts within a fund must report at least annually to the appropriate finance committees of the legislature on the number, purpose, and recent financial activity in those accounts. The commissioner must establish uniform criteria and timing for the reports.

Sec. 4. [SPECIAL REVENUE FUND ACCOUNTS.]
Beginning in fiscal year 2005, the commissioner of finance shall review one-quarter of the accounts in the accounting special revenue fund. Each following year, the commissioner shall review an additional one-quarter of the accounts until they have all been evaluated. This review must categorize the accounts by type and include a legislative history of each account, a financial history of each account, and a rationale for the existence of the account under generally accepted accounting principles. The review must explain why the account should not be in the general fund. Beginning with the 2005 regular session, the commissioner shall report to the legislature on the accounts reviewed and recommend any accounts that should be terminated. The commissioner shall work with house and senate fiscal staff to determine the categorization of accounts and other standards for the review.

ARTICLE 2
STATE BUDGET PROCESS

Sec. 5. Minnesota Statutes 2003 Supplement, section 16A.11, subdivision 3, is amended to read:
Subd. 3. [PART TWO: DETAILED BUDGET.]
(a) Part two of the budget, the detailed budget estimates both of expenditures and revenues, must contain any statements on the financial plan which the governor believes desirable or which may be required by the
legislature. The detailed estimates shall include the governor's budget arranged in tabular form.

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

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

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

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<td>Data Preparation. This section makes technical language changes to a data exchange agreement of wage information with a training service provider.</td>
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<td>14</td>
<td>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.</td>
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OMNIBUS DATA PRACTICES BILL
H.F. 2087 (Chapter 290)

Sec. 11. Minnesota Statutes 2002, section 13.47, subdivision 4, is amended to read:
Subd. 4. [DATA PREPARATION.] To produce data required to certify the eligibility of training service providers under section 268.0122, subdivision 3, clause (7), the Workforce Investment Act of 1998, United States Code, title 29, section 2801, or other studies required by law, the commissioner of economic security, in consultation with the governor's Workforce Development Council, employment and economic development may:
(1) enter into a data exchange agreement with a training service provider whereby the commissioner of economic security employment and economic development shall furnish to the provider wage information under section 268.044 on individuals who have received training services from the provider. The provider shall use this wage information to prepare summary data determined necessary by the commissioner in consultation with the governor's Workforce Development Council. The provider may use this wage information for conducting studies to improve instruction; or
(2) if there is no agreement under clause (1), require the training service provider to furnish employment and training data determined necessary by the commissioner in consultation with the governor's Workforce Development Council.

Sec. 14. Minnesota Statutes 2002, section 13.598, as amended by Laws 2003, chapter 128, article 13, section 40, and Laws 2003, First Special Session chapter 4, section 1, is amended to read:
13.598 [EMPLOYMENT AND ECONOMIC DEVELOPMENT DATA CODED ELSEWHERE.]
Subd. 10. [EMPLOYMENT AND TRAINING PROGRAMS; DATA SHARING.] Data sharing of employment and training program data between the commissioner of employment and economic development, the commissioner of human services, state agency personnel, and other users of the inventory, 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.

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<td>5 Speech-Language Pathology Assistant. This section amends M.S.148.512 by adding subdivision 17a, which defines “speech language pathology assistant.”</td>
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<td>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.</td>
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<td>7 Unlicensed Practice Prohibited. This section adds language referring to speech-language pathology assistants practicing without a license.</td>
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<td>8 Protected Titles and Restrictions on Use. This section prohibits speech-language pathology assistants from practicing or representing themselves as licensed.</td>
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<td>12 Temporary Licensure. This section changes cross references to temporary licensure provisions for speech-language pathologists.</td>
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<td>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.</td>
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<td>14 Speech-Language Pathology Assistants.</td>
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<td>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.</td>
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<td>Subdivision 3. Supervision Requirements. This section specifies</td>
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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.

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.

19 **Limited License.** This section adds a definition for “limited license.”

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.

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.

**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:

- Demonstrate that the applicant has not engaged in conduct
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.

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.

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.

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.

3 Fee. This section establishes applicant fees for licensed professional counseling.

4 Continuing Education. This section modifies continuing education requirements by making a technical change and capping the number of credit hours required.

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.

12 Effective Date. Sections 1 to 11 are effective the day following final enactment.

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.

2 Continuing Education Requirements for Licensee’s First Four Years. This section clarifies cultural diversity continuing education requirements.

3 Course Work. This section clarifies the continuing education credits a licensee may receive from teaching course work.
ARTICLE 7
Board of Dentistry

1 Licensure.
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. 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.
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, AND OCCUPATIONAL THERAPY

Sec. 5. Minnesota Statutes 2002, section 148.512, is amended by adding a subdivision to read:
  Subd. 17a. [SPEECH-LANGUAGE PATHOLOGY ASSISTANT.] "Speech-language pathology assistant" means a person who provides speech-language pathology services under the supervision of a licensed speech-language pathologist in accordance with section 148.5192.

Sec. 6. Minnesota Statutes 2002, section 148.512, subdivision 19, is amended to read:
  Subd. 19. [SUPERVISION.] "Supervision" means the direct or indirect evaluation or direction of:
  (1) a practitioner of speech-language pathology or audiology; (2) a person performing a function of supervised clinical training as a student of speech-language pathology or audiology; or
  (3) a person performing a function of supervised postgraduate clinical experience in speech-language pathology or audiology; or
  (4) a speech-language pathology assistant in accordance with section 148.5192.

Sec. 7. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 1, is amended to read:
  Subdivision 1. [UNLICENSED PRACTICE PROHIBITED.] A person must not engage in the practice of speech-language pathology or audiology unless the person is licensed as a speech-language pathologist or an audiologist under sections 148.511 to 148.5196 or is practicing as a speech-language pathology assistant in accordance with section 148.5192. For purposes of this subdivision, a speech-language pathology assistant's duties are limited to the duties described in accordance with section 148.5192, subdivision 2.

Sec. 8. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 2, is amended to read:
  Subd. 2. [PROTECTED TITLES AND RESTRICTIONS ON USE.]
  (a) Notwithstanding paragraph (b), the use of the following terms or initials which represent the following terms, alone or in combination with any word or words, by any person to form an occupational title is prohibited unless that person is licensed under sections 148.511 to 148.5196:
  (1) speech-language;
  (2) speech-language pathologist, S, SP, or SLP;
  (3) speech pathologist;
  (4) language pathologist;
  (5) audiologist, A, or AUD;
  (6) speech therapist;
  (7) speech clinician;
  (8) speech correctionist;
  (9) language therapist;
  (10) voice therapist;
  (11) voice pathologist;
  (12) logopedist;
  (13) communicologist;
(14) aphasiologist; (15) phoniatrist; (16) audiometrist; (17) audioprosthologist; (18) hearing therapist; (19) hearing clinician; or (20) hearing aid audiologist.

Use of the term "Minnesota licensed" in conjunction with the titles protected under this section paragraph by any person is prohibited unless that person is licensed under sections 148.511 to 148.519.

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

Sec. 12. Minnesota Statutes 2003 Supplement, section 148.5175, is amended to read: 148.5175 [TEMPORARY LICENSURE.]
(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518, subdivisions 1 and 2, and who:
(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and
(2) either:
(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or
(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.
(b) A temporary license issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies licensure, whichever occurs first.
(c) Upon application, a temporary license shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for licensure within the initial temporary licensure period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

For an applicant whose licensure status has lapsed, the applicant must:
(1) apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicant's license lapsed;
(2) fulfill the requirements of section 148.517; or
(3) apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology from the Minnesota Board of Teaching or for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdiction's continuing education requirements; or
(4) apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised
practice, the applicant shall first apply and obtain temporary licensing
according to section 148.5161.

Sec. 14. [148.5192] [SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.]
Subdivision 1. [DELEGATION REQUIREMENTS.] A licensed speech-
language pathologist may delegate duties to a speech-language pathology
assistant in accordance with this section. Duties may only be delegated
to an individual who has documented with a transcript from an educational
institution satisfactory completion of either:
(i) an associate degree from a speech-language pathology assistant
program that is accredited by the Higher Learning Commission of the North
Central Association of Colleges or its equivalent as approved by the
commissioner; or
(ii) a bachelor's degree in the discipline of communication sciences
or disorders with additional transcript credit in the area of instruction
in assistant-level service delivery practices and completion of at least
100 hours of supervised field work experience as a speech-language
pathology assistant student.

Subd. 2. [DELEGATED DUTIES; PROHIBITIONS.]
(a) A speech-language pathology assistant may perform only those
duties delegated by a licensed speech-language pathologist and must be
limited to duties within the training and experience of the speech-
language pathology assistant.
(b) Duties may include the following as delegated by the
supervising speech-language pathologist:
(1) assist with speech language and hearing screenings;
(2) implement documented treatment plans or protocols developed by
the supervising speech-language pathologist;
(3) document client performance;
(4) assist with assessments of clients;
(5) assist with preparing materials and scheduling activities as
directed;
(6) perform checks and maintenance of equipment;
(7) support the supervising speech-language pathologist in research
projects, in-service training, and public relations programs; and
(8) collect data for quality improvement.
(c) A speech-language pathology assistant may not:
(1) perform standardized or nonstandardized diagnostic tests,
perform formal or informal evaluations, or interpret test results;
(2) screen or diagnose clients for feeding or swallowing disorders,
including using a checklist or tabulating results of feeding or swallowing
evaluations, or demonstrate swallowing strategies or precautions to
clients or the clients' families;
(3) participate in parent conferences, case conferences, or any
interdisciplinary team without the presence of the supervising speech-
language pathologist or other licensed speech-language pathologist as
authorized by the supervising speech-language pathologist;
(4) provide client or family counseling or consult with the client
or the family regarding the client status or service;
(5) write, develop, or modify a client's individualized treatment
plan or individualized education program;
(6) select clients for service;
(7) discharge clients from service;
(8) disclose clinical or confidential information either orally or
in writing to anyone other than the supervising speech-language
pathologist; or
(9) make referrals for additional services.
(d) A speech-language pathology assistant must not sign any formal
documents, including treatment plans, education plans, reimbursement
forms, or reports. The speech-language pathology assistant must sign or
initial all treatment notes written by the assistant.

Subd. 3. [SUPERVISION REQUIREMENTS.]
(a) A supervising speech-language pathologist shall authorize and
accept full responsibility for the performance, practice, and activity of
a speech-language pathology assistant.
(b) A supervising speech-language pathologist must:
(1) be licensed under sections 148.511 to 148.5196;
(2) hold a certificate of clinical competence from the American
Speech-Language-Hearing Association or its equivalent as approved by the
commissioner; and
(3) have completed at least one continuing education unit in
supervision.
(c) The supervision of a speech-language pathology assistant shall
be maintained on the following schedule:
(1) for the first 90 work days, within a 40-hour work week, 30
percent of the work performed by the speech-language pathology assistant
must be supervised and at least 20 percent of the work performed must be
under direct supervision; and
(2) for the work period after the initial 90-day period, within a
40-hour work week, 20 percent of the work performed must be supervised and
at least ten percent of the work performed must be under direct
supervision.
(d) For purposes of this section, "direct supervision" means on-
site, in-view observation and guidance by the supervising speech-language
pathologist during the performance of a delegated duty. The supervision
requirements described in this section are minimum requirements.
Additional supervision requirements may be imposed at the discretion of
the supervising speech-language pathologist.
(e) A supervising speech-language pathologist must be available to
communicate with a speech-language pathology assistant at any time the
assistant is in direct contact with a client.
(f) A supervising speech-language pathologist must document
activities performed by the assistant that are directly supervised by the
supervising speech-language pathologist. At a minimum, the documentation
must include:
(1) information regarding the quality of the speech-language
pathology assistant's performance of the delegated duties; and
(2) verification that any delegated clinical activity was limited
to duties authorized to be performed by the speech-language pathology
assistant under this section.
(g) A supervising speech-language pathologist must review and
cosign all informal treatment notes signed or initialed by the speech-
language pathology assistant.
(h) A full-time, speech-language pathologist may supervise no more
than one full-time, speech-language pathology assistant or the equivalent
of one full-time assistant.

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

Sec. 15. Minnesota Statutes 2003 Supplement, section 148.5193,
subdivision 1, is amended to read:
Subdivision 1. [NUMBER OF CONTACT HOURS REQUIRED.]
(a) An applicant for licensure renewal must meet the requirements
for continuing education stipulated by the American Speech-Language-
Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (e).

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

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

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

1. activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:
   (i) offered by a sponsor of continuing education; and
   (ii) directly related to speech-language pathology;
2. activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, shall be considered:
   (i) offered by a sponsor of continuing education; and
   (ii) generally related to speech-language pathology;
3. one clock hour as defined in Minnesota Rules, part 8700.1000, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(e) Contact hours cannot be accumulated in advance and transferred to a future continuing education period.

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

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

1. intentionally submitted false or misleading information to the commissioner or the advisory council;
2. failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;
3. performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;
4. violated sections 148.511 to 148.5196;
(5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subdivision 1. [POSTSECONDARY STUDENTS.]
(a) A member of the Minnesota National Guard or any other military
reserve component who is a student at a postsecondary education
institution and who is called or ordered to state active service in the
Minnesota National Guard, as defined in section 190.05, subdivision 5, or
who is called or ordered to federal active military service has the
following rights:
   (1) with regard to courses in which the person is enrolled, the
   person may:
      (i) withdraw from one or more courses for which tuition and fees
have been paid that are attributable to the courses. The tuition and fees
must be credited to the person's account at the postsecondary institution.
Any refunds are subject to the requirements of the state or federal
financial aid programs of origination. In such a case, the student must
not receive credit for the courses and must not receive a failing grade,
an incomplete, or other negative annotation on the student's record, and
the student's grade point average must not be altered or affected in any
manner because of action under this item;
      (ii) be given a grade of incomplete and be allowed to complete the
course upon release from active duty under the postsecondary institution's
standard practice for completion of incompletes; or
      (iii) continue and complete the course for full credit. Class
sessions the student misses due to performance of state or federal active
military service must be counted as excused absences and must not be used
in any way to adversely impact the student's grade or standing in the
class. Any student who selects this option is not, however, automatically
excused from completing assignments due during the period the student is
performing state or federal active military service. A letter grade or a
grade of pass must only be awarded if, in the opinion of the faculty
member teaching the course, the student has completed sufficient work and
has demonstrated sufficient progress toward meeting course requirements to
justify the grade;
   (2) to receive a refund of amounts paid for room, board, and fees
attributable to the time period during which the student was serving in
state or federal active military service and did not use the facilities or
services for which the amounts were paid. Any refund of room, board, and
fees is subject to the requirements of the state or federal financial aid
programs of origination; and
   (3) if the student chooses to withdraw, the student has the right
to be readmitted and reenrolled as a student at the postsecondary
education institution, without penalty or redetermination of admission
eligibility, within one year following release from the state or federal
active military service.

(b) The protections in this section may be invoked as follows:
   (1) the person, or an appropriate officer from the military
organization in which the person will be serving, must give advance verbal
or written notice that the person is being called or ordered to qualifying
service;
   (2) advance notice is not required if the giving of notice is
precluded by military necessity or, under all the relevant circumstances,
the giving of notice is impossible or unreasonable; and
   (3) upon written request from the postsecondary institution, the
person must provide written verification of service.

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

Subd. 2. [RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS.] The
renewal of a license or certificate of registration for a member of the
Minnesota National Guard or other military reserves who has been ordered
to active military service and who is required by law to be licensed or
registered in order to carry on or practice a health or other trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

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

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

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

ARTICLE 4
BOARD OF NURSING

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

Subdivision 1. [LICENSURE BY EXAMINATION.]
(a) An applicant for a license to practice as a registered nurse or licensed practical nurse shall apply to the board for a license by examination on forms prescribed by the board and pay a fee in an amount determined by rule statute. An applicant applying for reexamination shall pay a fee in an amount determined by rule law. In no case may fees be refunded. Before being scheduled for examination, the applicant shall provide written evidence verified by oath that the applicant
(1) has not engaged in conduct warranting disciplinary action as set forth in section 148.261;
(2) meets secondary education requirements as determined by the board and other preliminary qualification requirements the board may prescribe by rule; and
(3) has completed a course of study in a nursing program approved by the board, another United States nursing board, or a Canadian province. An applicant who graduates from a nursing program in another country, except Canada, must also successfully complete the Commission on Graduates of Foreign Nursing Schools Qualifying Examination. The nursing program must be approved for the preparation of applicants for the type of license for which the application has been submitted. The applicant must pass a written examination in the subjects the board may determine. "Written examination" includes both paper and pencil examinations and examinations administered with a computer and related technology. Each written examination may be supplemented by an oral or practical examination.
(b) The applicant must satisfy the following requirements for licensure by examination:
(1) present evidence the applicant has not engaged in conduct warranting disciplinary action under section 148.261;
(2) present evidence of completion of a nursing education program approved by the board, another United States nursing board, or a Canadian province, which prepared the applicant for the type of license for which the application has been submitted; and
(3) pass a national nurse licensure written examination. "Written examination" includes paper and pencil examinations and examinations administered with a computer and related technology and may include supplemental oral or practical examinations approved by the board.
(c) An applicant who graduated from an approved nursing education program in Canada and was licensed in Canada or another United States jurisdiction, without passing the national nurse licensure examination,
must also submit a verification of licensure from the original Canadian licensure authority and from the United States jurisdiction.

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

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

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

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

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

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

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

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

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

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

(d) Prior to July 1, 2007, a clinical nurse specialist may petition the board for waiver from the certification requirement in paragraph (a) if the clinical nurse specialist is academically prepared as a clinical nurse specialist in a specialty area for which there is no certification within the clinical nurse specialist role and specialty or a related specialty. The board may determine that an available certification as a clinical nurse specialist in a related specialty must be obtained in lieu of the specific specialty or subspecialty. The petitioner must be academically prepared as a clinical nurse specialist in a specific field of clinical nurse specialist practice with a master's degree in nursing that included clinical experience in the clinical specialty and must have 1,000 hours of supervised clinical experience in the clinical specialty
for which the individual was academically prepared with a minimum of 500
hours of supervised clinical practice after graduation. The board may
grant a nonrenewable permit for no longer than 12 months for the
supervised postgraduate clinical experience. The board may renew the
waiver for three-year periods provided the clinical nurse specialist
continues to be ineligible for certification as a clinical nurse
specialist by an organization acceptable to the board.

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

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

ARTICLE 5
BOARD OF BEHAVIORAL HEALTH AND THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148B.52, is
amended to read: 148B.52 [DUTIES OF THE BOARD.]
(a) The Board of Behavioral Health and Therapy shall:
(1) establish by rule appropriate techniques, including
examinations and other methods, for determining whether applicants and
licensees are qualified under sections 148B.50 to 148B.593;
(2) establish by rule standards for professional conduct, including
adoption of a Code of Professional Ethics and requirements for continuing
education and supervision;
(3) issue licenses to individuals qualified under sections 148B.50
to 148B.593;
(4) establish by rule standards for initial education including
coursework for licensure and content of professional education;
(5) establish by rule procedures, including a standard disciplinary
process, to assess whether individuals licensed as licensed professional
counselors comply with the board's rules;
(6) establish, maintain, and publish annually a register of current
licensees and approved supervisors;
(7) establish initial and renewal application and examination
fees sufficient to cover operating expenses of the board and its agents;
(8) educate the public about the existence and content of the
laws and rules for licensed professional counselors to enable consumers to
file complaints against licensees who may have violated the rules;
(9) establish rules and regulations pertaining to treatment for
impaired practitioners; and
(10) periodically evaluate its rules in order to refine the
standards for licensing professional counselors and to improve the methods
used to enforce the board's standards.
(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

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

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

1. is at least 18 years of age;
2. is of good moral character;
3. has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;
4. has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and
5. has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;
6. will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and
7. has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.

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

1. the helping relationship, including counseling theory and practice;
2. human growth and development;
3. lifestyle and career development;
4. group dynamics, processes, counseling, and consulting;
5. assessment and appraisal;
6. social and cultural foundations, including multicultural issues;
7. principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
8. family counseling and therapy;
9. research and evaluation; and
10. professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).
Sec. 3. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 3, is amended to read:

Subd. 3. [FEE.] Each applicant shall pay a nonrefundable fee set by the board as follows:

(1) initial license application fee for licensed professional counseling (LPC) - $250;
(2) annual active license renewal fee for LPC - $200 or equivalent;
(3) annual inactive license renewal fee for LPC - $100;
(4) license renewal late fee - $100 per month or portion thereof;
(5) copy of board order or stipulation - $10;
(6) certificate of good standing or license verification - $10;
(7) duplicate certificate fee - $10;
(8) professional firm renewal fee - $25;
(9) initial registration fee - $50; and
(10) annual registration renewal fee - $25.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148B.54, is amended to read: 148B.54 [LICENSE RENEWAL REQUIREMENTS.]

Subd. 1. [RENEWAL.] Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. [CONTINUING EDUCATION.] At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 11. [TRANSITION PLAN.] The commissioner of health, in consultation with the executive directors of the health-related licensing boards, must develop a transition plan to transfer the authority for licensed alcohol and drug counselors from the commissioner of health to the Board of Behavioral Health and Therapy and for the regulation of individuals after July 1, 2005, who are not regulated by a health-related licensing board or the commissioner of health and who are providing mental health services for remuneration. The transition plan must include any necessary legislative language to transfer authority and corresponding funding to the board, identify critical licensing activities, and specify a schedule for transferring all duties and activities.

Sec. 12. [EFFECTIVE DATE.] Sections 1 to 11 are effective the day following final enactment.

ARTICLE 6
ALCOHOL AND DRUG COUNSELORS

Section 1. Minnesota Statutes 2003 Supplement, section 148C.04, subdivision 6, is amended to read:
Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:
(1) either:
(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national
certification body or a certification or licensing body from another
state, United States territory, or federally recognized tribal authority;
(ii) submits verification of the completion of at least 64 semester
credits, including 270 clock hours or 18 semester credits of formal
classroom education in alcohol and drug counseling and at least 880 clock
hours of alcohol and drug counseling practicum from an accredited school
or educational program; (ii)
(iii) applies to renew a lapsed license according to the
requirements of section 148C.055, subdivision 3, clauses (1) and (2), or
section 148C.055, subdivision 4, clauses (1) and (2), or
(iv) meets the requirements of section 148C.11, subdivision 6,
clauses (1), (2), and (5);
(2) applies, in writing, on an application form provided by the
commissioner, which includes the nonrefundable temporary permit fee as
specified in section 148C.12 and an affirmation by the person's
supervisor, as defined in paragraph (c), clause (1), which is signed and
dated by the person and the person's supervisor; and
(3) has not been disqualified to practice temporarily on the basis
of a background investigation under section 148C.09, subdivision 1a.
(b) The commissioner must notify the person in writing within 90
days from the date the completed application and all required information
is received by the commissioner whether the person is qualified to
practice under this subdivision.
(c) A person practicing under this subdivision:
(1) may practice under tribal jurisdiction or under the direct
supervision of a person who is licensed under this chapter;
(2) is subject to the Rules of Professional Conduct set by rule;
and
(3) is not subject to the continuing education requirements of
section 148C.075.
(d) A person practicing under this subdivision must use the title
or description stating or implying that the person is a trainee engaged in
the practice of alcohol and drug counseling.
(e) A person practicing under this subdivision must annually submit
a renewal application on forms provided by the commissioner with the
renewal fee required in section 148C.12, subdivision 3, and the
commissioner may renew the temporary permit if the trainee meets the
requirements of this subdivision. A trainee may renew a practice permit
no more than five times.
(f) A temporary permit expires if not renewed, upon a change of
employment of the trainee or upon a change in supervision, or upon the
granting or denial by the commissioner of a license.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148C.075,
subdivision 2, is amended to read:
Subd. 2. [CONTINUING EDUCATION REQUIREMENTS FOR LICENSEE'S
FIRST FOUR YEARS.] A licensee must, as part of meeting the clock hour
requirement of this section, obtain and document 18 hours of cultural
diversity training within the first four years after the licensee's
initial license effective date according to the commissioner's reporting
schedule. Cultural diversity training includes gaining knowledge in areas
described in Minnesota Rules, part 4747.1100, subpart 2, and in identified
population groups defined in Minnesota Rules, part 4747.0030, subpart 20.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148C.075, is
amended by adding a subdivision to read:
Subd. 5. [COURSE WORK.] A licensee may obtain a maximum of six
clock hours in any two-year continuing education period for teaching
course work in an accredited school or educational program that meets the
requirements of section 148C.04, subdivision 5a. A licensee may earn a
maximum of two clock hours as preparation time for each clock hour of presentation time. Clock hours may be claimed only once per course in any two-year continuing education period. The licensee shall maintain a course schedule or brochure for audit.

ARTICLE 7
BOARD OF DENTISTRY

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

Subd. 2. [DENTAL HYGIENISTS.] A person of good moral character not already a licensed dental hygienist of this state, who has graduated from a dental hygiene program established in an institution that is accredited by an accrediting agency recognized by the United States Department of Education to offer college-level programs accredited by the Commission on Dental Accreditation of the American Dental Association and established in an institution accredited by an agency recognized by the United States Department of Education to offer college-level programs, may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene curriculum and be accredited by the American Dental Association Commission on Dental Accreditation.

The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board of Dental Hygiene examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental hygienist and supplied with a license by the board.

Subd. 2a. [REGISTERED DENTAL ASSISTANT.] A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for registration. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination before applying to the board for registration. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical registration examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be registered as a dental assistant.
The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.

Subd. 4. [LICENSURE BY CREDENTIALS.] (a) Any person who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the Board of Dentistry a certificate from the board of dentistry of the state or Canadian province in which the applicant is licensed, certifying to the fact of licensure and that the applicant is of good moral character and professional attainments, shall, upon payment of the fee established by the board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2, the application shall be denied.

When denying a license, the board may notify the applicant of any specific course that the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, a license shall be granted to practice in this state, if the applicant passes an examination on the laws of Minnesota relating to dentistry and the rules of the Board of Dentistry. Dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on the applicant's performance record in lieu of passing an examination approved by the board according to section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:

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

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

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

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

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

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

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

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

Subd. 6. [DISPLAY OF NAME AND CERTIFICATES.] The name, initial license and subsequent renewal, or current registration certificate, and
annual registration certificate of every licensed dentist, dental hygienist, or registered dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. If there is more than one dentist, dental hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.

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

Subd. 8. [REGISTRATION BY CREDENTIALS.]
(a) Any dental assistant may, upon application and payment of a fee established by the board, apply for registration based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:
   (1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;
   (2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;
   (3) is of good moral character and abides by professional ethical conduct requirements;
   (4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and
   (5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.
(b) The board, at its discretion, may waive specific registration requirements in paragraph (a).
(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for registration under subdivision 2a must be registered to practice the applicant's profession.
(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for registration under subdivision 2a, the application must be denied. If registration is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for registration. A denial does not prohibit the applicant from applying for registration under subdivision 2a.
(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 4. [REGULATION OF DENTAL ASSISTANTS.] The Board of Dentistry, in consultation with the Minnesota Dental Association, the Minnesota Dental Assistants Association, and the Minnesota Dental Hygienists' Association, shall establish a regulatory system for dental assistants that recognizes the different degrees of practice within the profession,
including the expanded duties authorized under Minnesota Statutes, section 150A.10, subdivision 4. The system must establish:
(1) the appropriate level of education and training;
(2) the authorized scope of practice for each level of practice;
and
(3) the appropriate credentialing necessary to ensure public safety and professional standing. The board shall submit the proposed regulatory system to the legislature by January 15, 2005.

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

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<td>21 Training Program. This section changes references to the commissioner of Education to the commissioner of Human Services.</td>
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<td>Health Care Cost Containment</td>
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<td>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.</td>
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<td>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. 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.</td>
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DEPARTMENT OF HUMAN SERVICES LICENSING AND TECHNICAL CORRECTIONS
H.F. 2277 (Chapter 288)

ARTICLE 4
CHILD CARE; MINNESOTA FAMILY INVESTMENT PLAN

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

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

ARTICLE 7
HEALTH CARE COST CONTAINMENT

Sec. 2. [62J.43] [BEST PRACTICES AND QUALITY IMPROVEMENT.]
(a) 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 shall facilitate access to best practice guidelines and quality of care measurement information to providers, purchasers, and consumers by:
(1) identifying and promoting local community-based, physician-designed best practices care across the Minnesota health care system;
(2) disseminating information available to the commissioner on adherence to best practices care by physicians and other health care providers in Minnesota;
(3) educating consumers and purchasers on how to effectively use this information in choosing their providers and in making purchasing decisions; and
(4) making best practices and quality care measurement information available to enrollees and program participants through the Department of Health's Web site. The commissioner may convene an advisory committee to ensure that the Web site is designed to provide user friendly and easy accessibility.
(b) The commissioner of health shall collaborate with a nonprofit Minnesota quality improvement organization specializing in best practices and quality of care measurements to provide best practices criteria and assist in the collection of the data.
(c) The initial best practices and quality of care measurement criteria developed shall include asthma, diabetes, and at least two other preventive health measures. Hypertension and coronary artery disease shall be included within one year following availability.
(d) The commissioners of human services and employee relations may use the data to make decisions about contracts they enter into with health plan companies.
(e) This section does not apply if the best practices guidelines authorize or recommend denial of treatment, food, or fluids necessary to sustain life on the basis of the patient's age or expected length of life or the patient's present or predicted disability, degree of medical dependency, or quality of life.
(f) The commissioner of health, human services, and employee relations shall report to the legislature by January 15, 2005, on the status of best practices and quality of care initiatives, and shall
present recommendations to the legislature on any statutory changes needed
to increase the effectiveness of these initiatives.

(g) This section expires June 30, 2006.

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

(a) The commissioner of health shall convene an Electronic Health
Record Planning and Implementation Work Group. The work group shall
consist of representatives of hospitals, health plans, physicians, nurses,
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.

(b) The work group shall:

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

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

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

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

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

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

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

(c) By December 31, 2004, the work group shall provide preliminary
assessments and recommendations to the chairs of the house and senate
committees with jurisdiction over health care policy and financing. The
recommendations shall also include the appropriate role of the state in
the development, financing, promotion, and implementation of an electronic
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 | Job Reference Liability Bill | Language Page
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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
JOB REFERENCE LIABILITY BILL
H.F. 480 (Chapter 137)

Sec. 2. Minnesota Statutes 2002, section 181.961, subdivision 1, is amended to read:
Subdivision 1. [RIGHT TO REVIEW; FREQUENCY.] Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record only once at any time within one each year after separation for as long as the personnel record is maintained.

Sec. 3. [181.967] [EMPLOYMENT REFERENCES.]
Subdivision 1. [DEFINITIONS.] For purposes of this section:
(1) "employee" means a person who performs services for hire and includes an officer of a corporation;
(2) "employer" means a person who has one or more employees and includes a designated employee or agent who discloses information on behalf of an employer;
(3) "personnel record" has the meaning given in section 181.960;
(4) "private employer" means an employer that is not a government entity, as defined in section 13.02; and
(5) "public employer" means an employer that is a government entity, as defined in section 13.02.

Subd. 2. [CAUSES OF ACTION LIMITED.] No action may be maintained against an employer by an employee or former employee for the disclosure of information listed in subdivisions 3 to 5 about the employee to a prospective employer or employment agency as provided under this section, unless the employee or former employee demonstrates by clear and convincing evidence that:
(1) the information was false and defamatory; and
(2) the employer knew or should have known the information was false and acted with malicious intent to injure the current or former employee.

Subd. 4. [DISCLOSURE OF PERSONNEL DATA BY PUBLIC EMPLOYER.] Subdivision 2 applies to the disclosure of all public personnel data and to the following private personnel data under section 13.43 by a public employer if the current or former employee gives written consent to the release of the private data:
(1) written employee evaluations conducted before the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record; and
(2) written reasons for separation from employment.

Subd. 6. [APPLICATION; RELATION TO OTHER LAW.]
(a) This section does not affect the availability of other limitations on liability under common law.
(b) This section does not apply to an action involving an alleged violation of chapter 363 or other statute.
(c) This section does not diminish or impair the rights of a person under a collective bargaining agreement.

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

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<td><strong>Admission Requirements; Course of Instruction.</strong> This section adds clarity to what courses must be included for barbering programs.</td>
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<td><strong>Board of Barber and Cosmetologist Examiners Created; Terms.</strong> 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.</td>
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INSURANCE FRAUD; AUTO THEFT PREVENTION; AND BARBERS AND COSMETOLOGISTS BILL
H.F. 2640 (Chapter 269)

ARTICLE 3
BARBERS AND COSMETOLOGISTS

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

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

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

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

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

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

(d) Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.
(e) Members appointed to fill vacancies caused by death, resignation, or removal shall serve during the unexpired term of their predecessors.

(f) The barber members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 154.01 to 154.26. The cosmetologist members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 155A.01 to 155A.16. Staff hired by 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 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.

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.

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.
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.
ECONOMIC SECURITY DEPARTMENT AND EMPLOYMENT AND ECONOMIC DEVELOPMENT DEPARTMENT MERGER BILL

H.F. 2386 (Chapter 206)

The commissioner of employment and economic development shall:
(7) provide consistent, integrated employment and training services across the state;
(9) establish the standards for all employment and training services administered under this chapter and chapters 116L, 248, 268, and 268A;
(19) provide current state and substate labor market information and forecasts, in cooperation with other agencies;
(20) 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;

Sec. 44. Minnesota Statutes 2003 Supplement, section 268.363, is amended to read: 268.363 [ADVISORY COMMITTEE.]
A 13-member advisory committee is established as provided under section 15.059 to assist the commissioner in selecting eligible organizations to receive program grants and evaluating the final reports of each organization. Notwithstanding section 15.059, the advisory committee shall not expire before June 30, 1995. Members of the committee may be reimbursed for expenses but may not receive any other compensation for service on the committee. The advisory committee consists of representatives of the commissioners of education, human services, and employment and economic security development; a representative of the chancellor of the Minnesota State Colleges and Universities; a representative of the commissioner of the Housing Finance Agency; the director of the Office of Job Policy; and seven public members appointed by the governor. Each of the following groups must be represented by a public member experienced in working with targeted youth: labor organizations, local educators, community groups, consumers, local housing developers, youth between the ages of 16 and 24 who have a period of homelessness, and other homeless persons. At least three of the public members must be from outside of the metropolitan area as defined in section 473.121, subdivision 2. The commissioner may provide staff to the advisory committee to assist it in carrying out its purpose.

Sec. 46. Minnesota Statutes 2002, section 268.665, as amended by Laws 2003, chapter 130, section 12, and Laws 2003, First Special Session chapter 4, section 1, is amended to read: 268.665 [WORKFORCE DEVELOPMENT COUNCIL.]
Subd. 2. [MEMBERSHIP.] The governor's Workforce Development Council is composed of 33 members appointed by the governor. The members may be removed pursuant to section 15.059. In selecting the
representatives of the council, the governor shall ensure that 50 percent
of the members come from nominations provided by local workforce councils.
Local education representatives shall come from nominations provided by
local education to employment partnerships. The 31 members shall
represent the following sectors:

(a) State agencies: the following individuals shall serve on the
council:
(1) commissioner of the Minnesota Department of Employment and
Economic Security;
(2) commissioner of the Minnesota Department of Education; and
(3) commissioner of the Minnesota Department of Human Services; and
(4) commissioner of the Minnesota Department of Employment and
Economic Development.

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

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

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

(e) Education: six individuals shall represent the education
sector of Minnesota as follows:
(1) one individual shall represent local public secondary
education;
(2) one individual shall have expertise in design and
implementation of school-based service-learning;
(3) one individual shall represent postsecondary education
leadership of the University of Minnesota;
(4) one individual shall represent secondary/postsecondary
vocational institutions;
(5) the chancellor of the Board of Trustees of the Minnesota State
Colleges and Universities; and
(6) one individual shall have expertise in agricultural education.

(f) Other: two individuals shall represent other constituencies
including:
(1) units of local government; and
(2) applicable state or local programs.
The speaker and the minority leader of the house of representatives shall
each appoint a representative to serve as an ex officio member of the
council. The majority and minority leaders of the senate shall each
appoint a senator to serve as an ex officio member of the council. After
January 1, 1997, the Minnesota director of the Corporation for National
Service shall also serve as an ex officio member.

(g) Appointment: each member shall be appointed for a term of
three years from the first day of January or July immediately following
their appointment. Elected officials shall forfeit their appointment if
they cease to serve in elected office.
(h) Members of the council are compensated as provided in section 15.059, subdivision 3.

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

(a) Coordinate the development, implementation, and evaluation of the statewide education and employment transitions system under section 124D.46. Beginning January 1, 1997, the council shall also coordinate the development, implementation, and evaluation of the Minnesota youth services programs under sections 124D.38 to 124D.44, and the National and Community Services Act of 1993, United States Code, title 42, section 12501, et seq.

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

2. Carl D. Perkins Vocational and Applied Technology Education Act, United States Code, title 20, section 2301, et seq.;
4. Adult Education Act, United States Code, title 20, section 1201, et seq.;
5. Wagner-Peyser Act, United States Code, title 29, section 49;
7. Food Stamp Act of 1977, United States Code, title 7, section 6(d)(4), Food Stamp Employment and Training Program, United States Code, title 7, section 2015(d)(4); and
8. programs defined in section 268.0111, subdivision 5; and

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

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

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

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

(1) coordinate implementation of the education and employment transitions system under section 124D.46;
(2) (d) promote education and employment transitions programs and knowledge and skills of entrepreneurship among employers, workers, youth, and educators, and encourage employers to provide meaningful work-based learning opportunities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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<td>1</td>
<td>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.</td>
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</tr>
</tbody>
</table>

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

Section 1. Minnesota Statutes 2002, section 13D.05, subdivision 3, is amended to read:
Subd. 3. [WHAT MEETINGS MAY BE CLOSED.]
(a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.
(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.
(c) A public body may close a meeting:
(1) to determine the asking price for real or personal property to be sold by the government entity;
(2) to review confidential or nonpublic appraisal data under section 13.44, subdivision 3; and
(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

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

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

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<th>Affirmative Action in State Employment Bill</th>
<th>Language Page</th>
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<tbody>
<tr>
<td>1</td>
<td><strong>Goal Unit.</strong> 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.</td>
<td>107</td>
</tr>
<tr>
<td>2</td>
<td><strong>Statewide Affirmative Action Program.</strong> 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.</td>
<td>107</td>
</tr>
</tbody>
</table>
Section 1. Minnesota Statutes 2002, section 43A.02, is amended by adding a subdivision to read:

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

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

Subdivision 1. [STATEWIDE AFFIRMATIVE ACTION PROGRAM.]

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

(1) objectives, goals, and policies;
(2) procedures, standards, and assumptions to be used by agencies in the preparation of agency affirmative action plans, including methods by which goals and timetables are established;
(3) the analysis of separation patterns to determine the impact on protected group members; and
(4) requirements for annual objectives and submission of affirmative action progress reports from heads of agencies.

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

(1) the percentage of members of each protected class in the recruiting area population who have the necessary skills; and
(2) the availability for promotion or transfer of current employees who are members of protected classes in the recruiting area population.

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

(3) the extent of unemployment of members of protected classes in the recruiting area population;
(4) the existence of training programs in needed skill areas offered by employing agencies and other institutions; and
(5) the expected number of available positions to be filled.

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

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<th>Section</th>
<th>State Employment Process Modifications Bill</th>
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</tr>
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<tbody>
<tr>
<td>1</td>
<td>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.</td>
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<tr>
<td>2</td>
<td>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.</td>
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<tr>
<td>3</td>
<td>Appointment. This section refers to selection from a finalist pool, rather than an “eligible list.”</td>
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<tr>
<td>4</td>
<td>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.”</td>
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<tr>
<td>5</td>
<td>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.</td>
<td>113</td>
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<tr>
<td>6</td>
<td>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.</td>
<td>113</td>
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<tr>
<td>7</td>
<td>Probationary Period. This section changes the definition to refer to a selection process instead of an examination process.</td>
<td>113</td>
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<tr>
<td>8</td>
<td>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.”</td>
<td>114</td>
</tr>
<tr>
<td>9</td>
<td>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.”</td>
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<tr>
<td>10</td>
<td>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.</td>
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<tr>
<td>11</td>
<td>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.</td>
<td>115</td>
</tr>
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</table>
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.

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 of 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.

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.

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.”

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.

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.

18 **General.** This section refers to finalist pool, rather than “eligible lists.”

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.

20 **Provisional Appointments.** This section authorizes a provisional appointment if no applicant is suitable (replacing current law which refers to an “incomplete certification”).
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.

22 **Routine Service.** This section strikes reference to qualifying skills test for entry-level clerical positions.

23 **On-the-Job Demonstration Process and Appointment.** This section refers to applicants and selection process instead of candidates and examinations.

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.

25 **General.** In law dealing with probationary periods, this section strikes reference to “reemploys.”

26 **Audits; Sanctions; and Incentives.** This section changes references to subdivisions dealing with non-competitive appointments.

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.

28 **Prohibited Acts; Penalties.** This section strikes reference to examination and certification and refers instead to the selection process.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 32. [PROBATIONARY PERIOD.] "Probationary period", part of the examination selection process, means a working period following unlimited appointment to a position in the classified service, during
which the employee is required to demonstrate ability to perform the
duties and fulfill the responsibilities of the position.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. [ADMINISTRATIVE PROCEDURES.] The commissioner shall
develop administrative procedures, which are not subject to the rulemaking
provisions of the Administrative Procedure Act, to effect provisions of
chapter 43A which do not directly affect the rights of or processes
available to the general public. The commissioner may also adopt
administrative procedures, not subject to the Administrative Procedure
Act, which concern topics affecting the general public if those procedures
concern only the internal management of the department or other agencies
and if those elements of the topics which affect the general public are
the subject of department rules. Administrative procedures shall be
reproduced and made available for comment to agencies, employees, and
appropriate exclusive representatives certified pursuant to sections
179A.01 to 179A.25, for at least 15 days prior to implementation and shall
include but are not limited to:
(a) maintenance and administration of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service;

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

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

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

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

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

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

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

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

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

Subd. 2a. [APPLICATION REQUIREMENTS.] The commissioner shall establish and maintain a database of applicants for state employment. The
commissioner shall establish, publicize, and enforce minimum requirements for application. The appointing authority shall enforce the established minimum requirements for application for individuals who express interest directly to the appointing authority.

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

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

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

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

Subd. 6. [ELIGIBILITY FOR COMPETITIVE PROMOTIONAL EXAMINATIONS.] Competitive promotional examinations shall be open only to employees of the civil service, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association. The commissioner may require that competition be extended to all employees as defined above or may limit competition to employees of one or more agencies or organizational units thereof or to employees meeting specified employment conditions.

Subd. 6a. [LIMITED CONSIDERATION OF APPLICANTS.] The commissioner may limit consideration to only those applicants who have indicated availability for the geographic location, employment condition, travel status, and job grouping of the vacant position and who have indicated possession of the minimum qualifications for the vacant position. In addition, the commissioner may limit consideration to only those applicants who are:

(1) employees on a layoff list for the job class of the position. The appointing authority shall consider those names as provided in collective bargaining agreements and plans established under section 43A.18;

(2) current employees of the civil service, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association, or employees of one or more agencies or organizational units under them;

(3) former permanent and probationary employees of the job class who separated from the class in good standing within the past four years and have indicated availability for reinstatement to the class; or

(4) current permanent and probationary employees who have indicated availability for transfer or demotion to the job class.

Subd. 6b. [REFUSAL TO CONSIDER AN APPLICANT.] The commissioner may remove from consideration any applicant who:

(1) has been dismissed for cause from the public service;
(2) has directly or indirectly given or promised to give anything of value to any person in connection with the selection process, appointment, or proposed appointment;

(3) has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in the application or selection process or in securing eligibility or appointment; or

(4) has a prior conviction of a crime directly related to the vacant position provided the refusal is consistent with the requirements and procedures of chapter 364. When the commissioner refuses to consider an applicant, the commissioner shall, upon request of the applicant, furnish the applicant a statement of the reasons for the refusal. Upon receipt of relevant information, the commissioner shall reconsider the refusal and may restore the applicant to consideration.

Subd. 7. [EXAMINATION SELECTION PROCESS ACCOMMODATIONS.] Upon request, the commissioner or appointing authority shall provide examination selection process accommodations to a candidate an applicant with a disability that does not prevent performance of the duties of the class position. The accommodations must provide an opportunity to fairly examine assess the ability of the candidate applicant to perform the duties of the class position notwithstanding the disability but must preserve, to the extent feasible, the validity of the examination selection process and equitable comparison of examination scores results with the results of competitors without disabilities.

Subd. 8. [ELIGIBILITY FOR QUALIFIED DISABLED EXAMINATIONS.] The commissioner shall establish alternative examination methods to assess the qualifications of applicants for a competitive open or competitive promotional examination who have a disability that does not prevent performance of the duties of the class but that cannot be accommodated in the regular examination process. Alternative examination methods offered must allow candidates for competitive open and competitive promotional exams to demonstrate possession of the same knowledge, skills, and abilities essential to satisfactory performance in the job class without compromising inferences about other candidates' qualifications.

Sec. 13. Minnesota Statutes 2002, section 43A.11, subdivision 5, is amended to read:

Subd. 5. [DISABLED VETERAN; DEFINITIONS.] For the purpose of the preference to be used in securing appointment from a competitive open examination an applicant pool, "disabled veteran" means a person who has a compensable service connected disability as adjudicated by the United States Veterans Administration, or by the retirement board of one of the several branches of the armed forces, which disability is existing at the time preference is claimed. For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a promotional preference, is entitled to disability compensation under laws administered by the Veterans Administration for a permanent service connected disability rated at 50 percent or more.

Sec. 14. Minnesota Statutes 2002, section 43A.11, subdivision 7, is amended to read:

Subd. 7. [RANKING OF VETERANS.] An eligible with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a nonveteran with the same rating. Applicants who meet the minimum qualifications for a vacant position and claim disabled veteran's preference shall be listed in the applicant pool ahead of all other applicants. Applicants who meet the minimum qualifications for a vacant position and claim nondisabled veteran's preference shall be listed in the applicant pool after those claiming disabled veteran's preference and ahead of nonveterans.
Sec. 15. Minnesota Statutes 2002, section 43A.11, subdivision 8, is amended to read:

Subd. 8. [NOTIFICATION.] A governmental agency, when notifying eligibles applicants that they have passed examinations been accepted into the state's selection process, shall show the final examination ratings preference credits and shall notify eligibles applicants that they may elect to use veteran's preference to augment passing ratings.

Sec. 16. Minnesota Statutes 2002, section 43A.11, subdivision 9, is amended to read:

Subd. 9. [REJECTION; EXPLANATION.] If the appointing authority rejects a certified eligible member of the finalist pool who has received claimed veteran's preference, the appointing authority shall notify the eligible finalist in writing of the reasons for the rejection.

Sec. 17. [43A.121] [RANKING OF THE APPLICANT POOL.] Applicants referred from a layoff list shall be ranked as provided in the collective bargaining agreement or plan established under section 43A.18, under which the layoff list was established. All other names in an applicant pool shall be ranked according to the veteran's preference provisions of section 43A.11, subdivision 7, and then in descending order of the number of skill matches for the vacant position. If any ties in rank remain, those names shall appear in alphabetical order.

Sec. 18. Minnesota Statutes 2002, section 43A.15, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Positions in the classified service may be filled other than by appointment from eligible lists a finalist pool only as provided in this section or other law, provided that appointments made pursuant to subdivisions 5, 6, 8, 10, 11, and 12, and 13 shall be subject to applicable provisions of collective bargaining agreements.

Sec. 19. Minnesota Statutes 2002, section 43A.15, subdivision 2, is amended to read:

Subd. 2. [EMERGENCY APPOINTMENTS.] An appointing authority may make an emergency appointment for up to 45 working days. If necessary, the commissioner may grant an extension of the emergency appointment for 15 additional working days. No person may be employed in any one agency on an emergency basis for more than 45 working days in any 12-month period.

Sec. 20. Minnesota Statutes 2002, section 43A.15, subdivision 4, is amended to read:

Subd. 4. [PROVISIONAL APPOINTMENTS.] The commissioner may authorize an appointing authority to make a provisional appointment if there is an urgent reason for filling a vacancy and no person on an incomplete certification applicant is suitable or available for appointment. and No the person shall to be provisionally appointed unless the person has passed an appropriate qualifying examination or is qualified in all respects except for completion of a licensure or certification requirement. To the extent possible, the commissioner shall ensure that provisional appointments are kept to a minimum. No person shall be employed on a provisional basis for more than six months unless the commissioner grants an extension to a maximum of 12 months in the best interest of the state. No extension may be granted beyond 12 months except for persons provisionally appointed to physician positions or other positions requiring licensure or certification where there is a lack of
eligibles applicants and the provisional appointee is continuing to work to complete the licensure or certification requirement.

At the request of an appointing authority, the commissioner may authorize the probationary appointment of a provisional appointee who has performed satisfactorily for at least 60 days and has completed the licensure or certification requirement.

Sec. 21. Minnesota Statutes 2002, section 43A.15, subdivision 7, is amended to read:

Subd. 7. [APPOINTMENTS FOR UNCLASSIFIED INCUMBENTS OF NEWLY CLASSIFIED POSITIONS.] The commissioner may authorize the probationary appointment of an incumbent who has passed a qualifying examination selection process and who has served at least one year in an unclassified position which has been placed in the classified service by proper authority.

Sec. 22. Minnesota Statutes 2002, section 43A.15, subdivision 10, is amended to read:

Subd. 10. [ROUTINE SERVICE AND ENTRY CLERICAL APPOINTMENTS.] The commissioner may authorize the administration of a qualifying selection process if a class is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level. The commissioner may also authorize the administration of qualifying skill tests for entry level clerical positions as an alternative to certification from an eligible list as provided in section 43A.13.

Sec. 23. Minnesota Statutes 2003 Supplement, section 43A.15, subdivision 14, is amended to read:

Subd. 14. [ON-THE-JOB DEMONSTRATION EXAMINATION PROCESS AND APPOINTMENT.] The commissioner shall establish qualifying procedures for candidates applicants whose disabilities are of such a severe nature that the candidates applicants are unable to demonstrate their abilities in competitive and qualified disabled examination processes the selection process. The qualifying procedures must consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the disabled person has the option of being paid or unpaid. Up to three persons with severe disabilities and their job coach may be allowed to demonstrate their job competence as a unit through the on-the-job trial work experience examination selection procedure. This work experience on-the-job demonstration process must be limited to candidates for appointment, promotion, or transfer applicants for which whom there is no reasonable accommodation in the examination selection process. The commissioner may authorize the probationary appointment of a candidate an applicant based on the request of the appointing authority that documents that the candidate applicant has successfully demonstrated qualifications for the position through completion of an on-the-job trial work experience. The implementation of this subdivision may not be deemed a violation of chapter 43A or 363A.

Sec. 24. Minnesota Statutes 2002, section 43A.15, subdivision 15, is amended to read:

Subd. 15. [REINSTATEMENT.] An appointing authority may directly reinstate a person who is a former permanent or probationary employee of the job class, within four years of separation from the class. The four-year limitation does not apply to former permanent or probationary employees of the class who are receiving disability benefits under a state retirement plan.
Sec. 25.  Minnesota Statutes 2002, section 43A.16 subdivision 1, is amended to read:

   Subdivision 1.  [GENERAL.] All unlimited appointments to positions in the classified service except as provided in this subdivision shall be for a probationary period the duration of which shall be determined through collective bargaining agreements or plans established pursuant to section 43A.18 but which shall not be less than 30 days of full-time equivalent service nor more than two years of full-time equivalent service. An appointing authority may require a probationary period for transfers, reemployments, reinstatements, voluntary demotions, and appointments from layoff lists of former employees of a different appointing authority. For employees in a bargaining unit as defined in section 179A.10 the requirement of such a probationary period shall be subject to applicable provisions of collective bargaining agreements.

Sec. 26.  Minnesota Statutes 2002, section 43A.191, subdivision 3, is amended to read:

   Subd. 3.  [AUDITS; SANCTIONS AND INCENTIVES.]
   (a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements.
   (b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the Finance Committee of the senate, the Ways and Means Committee of the house of representatives, the Governmental Operations Committees of both houses of the legislature, and the Legislative Coordinating Commission on Employee Relations. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 7, 10, and 12, and cover each agency's rate of compliance with affirmative action requirements.
   (c) An agency that does not meet its hiring goals must justify its nonaffirmative action hires in competitive and noncompetitive appointments according to criteria issued by the Department of Employee Relations. "Missed opportunity" includes failure to justify a nonaffirmative action hire. An agency must have 25 percent or less missed opportunities in competitive appointments and 25 percent or less missed opportunities in appointments made under sections 43A.08, subdivisions 1, clauses (9), (11), and (16); and 2a; and 43A.15, subdivisions 3 to 7, 10, 12, and 13. In addition, an agency shall:
      (1) demonstrate a good faith effort to recruit protected group members by following an active recruitment plan;
      (2) implement a coordinated retention plan; and
      (3) have an established complaint resolution procedure.
   (d) The commissioner shall develop reporting standards and procedures for measuring compliance.
   (e) An agency is encouraged to develop other innovative ways to promote awareness, acceptance, and appreciation for diversity and affirmative action. These innovations will be considered when evaluating an agency's compliance with this section.
   (f) An agency not in compliance with affirmative action requirements of this section must identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit program and resource reallocation proposals to the commissioner for approval. An agency must submit these proposals within 120 days of being notified by the commissioner that it is out of compliance with affirmative action requirements. The commissioner shall monitor quarterly the affirmative action programs of an agency found to be out of compliance.
(g) The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan.

Sec. 27. Minnesota Statutes 2002, section 43A.36, subdivision 1, is amended to read:

Subdivision 1. [COOPERATION; STATE AGENCIES.] The commissioner may delegate administrative functions associated with the duties of the commissioner to appointing authorities who have the capability to perform such functions when the commissioner determines that it is in the best interests of the state civil service. The commissioner shall consult with agencies and agencies shall cooperate as appropriate in implementation of this chapter. The commissioner, in conjunction with appointing authorities, shall analyze and assess current and future human resource requirements of the civil service and coordinate personnel actions throughout the civil service to meet the requirements. The commissioner shall permit appointing authorities to use eligible lists in making appointments to positions in the unclassified service and shall provide recruiting assistance and make the applicant database available to appointing authorities to use in making appointments to positions in the unclassified service. The head of each agency in the executive branch shall designate an agency personnel officer. The agency personnel officer shall be accountable to the agency head for all personnel functions prescribed by laws, rules, collective bargaining agreements, the commissioner and the agency head. Except when otherwise prescribed by the agency head in a specific instance, the personnel officer shall be assumed to be the authority accountable to the agency head over any other officer or employee in the agency for personnel functions.

The head of each agency in the executive branch shall designate an affirmative action officer who shall have primary responsibility for the administration of the agency's affirmative action plan. The officer shall report directly to the head of the agency on affirmative action matters.

Sec. 28. Minnesota Statutes 2002, section 43A.39, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; PENALTIES.] All employees shall comply with and aid in all proper ways the enforcement of the provisions of this chapter. No employee or any other person shall intentionally:

(a) Make any false oral or written statement, mark, rating or report concerning any application, examination, certification selection process, or appointment made under provisions of this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter;

(b) Directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in obtaining, a position in the civil service;

(c) Defeat, deceive, or obstruct any person in exercising rights to examination, eligibility, certification or appointment under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to appointment, advancement or retention in the classified service;

(d) Violate the provisions of section 43A.37 or 43A.38; or

(e) If in the classified service, engage in activities prohibited by section 43A.32.

Sec. 29. Minnesota Statutes 2002, section 197.455, is amended to read: 197.455 [STATE LAW APPLICABLE VETERAN'S PREFERENCE APPLIED.]

Subdivision 1. [APPLICATION.] The provisions of section 43A.11 granting preference to veterans in the state civil service this section
shall also govern preference of a veteran under the civil service laws, charter provisions, ordinances, rules or regulations of a county, city, town, school district, or other municipality or political subdivision of this state, except that a notice of rejection stating the reasons for rejection of a qualified veteran shall be filed with the appropriate local personnel officer. Any provision in a law, charter, ordinance, rule or regulation contrary to the applicable provisions of this section 43A.11 is void to the extent of such inconsistency. Sections 197.46 to 197.48 shall not apply to state civil service.

Subd. 2. [CREATION.] Recognizing that training and experience in the military services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily assessed by examination, a veteran's preference shall be available to a veteran as defined in section 197.447.

Subd. 3. [RESTRICTIONS.] Veteran's preference credit under this section may not be used by any veteran who is currently receiving or is eligible to receive a monthly veteran's pension based exclusively on length of military service.

Subd. 4. [NONDISABLED VETERAN'S CREDIT.] There shall be added to the competitive open examination rating of a nondisabled veteran, who so elects, a credit of five points provided that the veteran obtained a passing rating on the examination without the addition of the credit points.

Subd. 5. [DISABLED VETERAN'S CREDIT.] There shall be added to the competitive open examination rating of a disabled veteran, who so elects, a credit of ten points provided that the veteran obtained a passing rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination rating of a disabled veteran, who so elects, a credit of five points provided that (1) the veteran obtained a passing rating on the examination without the addition of the credit points; and (2) the veteran is applying for a first promotion after securing public employment.

Subd. 6. [DISABLED VETERAN; DEFINITIONS.] For the purpose of the preference to be used in securing appointment from a competitive open examination, "disabled veteran" means a person who has a compensable service-connected disability as adjudicated by the United States Veterans Administration, or by the retirement board of one of the several branches of the armed forces, which disability is existing at the time preference is claimed. For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a promotional preference, is entitled to disability compensation under laws administered by the Veterans Administration for a permanent service-connected disability rated at 50 percent or more.

Subd. 7. [PREFERENCE FOR SPOUSES.] A preference available pursuant to this section may be used by the surviving spouse of a deceased veteran and by the spouse of a disabled veteran who because of the disability is unable to qualify.

Subd. 8. [RANKING OF VETERANS.] An eligible with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a nonveteran with the same rating.

Subd. 9. [NOTIFICATION.] A governmental agency, when notifying eligibles that they have passed examinations, shall show the final examination ratings and preference credits and shall notify eligibles that they may elect to use veteran's preference to augment passing ratings.

Subd. 10. [REJECTION; EXPLANATION.] If the appointing authority rejects a certified eligible who has received veteran's preference, the appointing authority shall notify the eligible in writing of the reasons for the rejection and file the notice with the appropriate local personnel officer.