

FORTY-SIXTH DAY

St. Paul, Minnesota, Monday, May 4, 2009

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

**CALL OF THE SENATE**

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

Prayer was offered by the Chaplain, Rev. Kevin McDonough.

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

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

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

The President declared a quorum present.

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

**EXECUTIVE AND OFFICIAL COMMUNICATIONS**

The following communications were received.

September 11, 2007

The Honorable James P. Metzen  
President of the Senate

Dear Senator Metzen:

I hereby notify the Senate that I appoint William A. Gillespie to serve as a member of the Minnesota Gambling Control Board for the term expiring June 30, 2011.

(Referred to the Committee on State and Local Government Operations and Oversight.)

Sincerely,  
Lori Swanson  
Attorney General

April 27, 2009

The Honorable James P. Metzen  
President of the Senate

Dear Senator Metzen:

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

#### GAMBLING CONTROL BOARD

Norman Pint, 6525 W. 270th St., New Prague, in the county of Scott, effective July 1, 2007, for a term that expires on June 30, 2011.

(Referred to the Committee on State and Local Government Operations and Oversight.)

Sincerely,  
Michael Campion, Commissioner  
Minnesota Department of Public Safety

April 30, 2009

The Honorable James P. Metzen  
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1454, 462 and 261.

Sincerely,  
Tim Pawlenty, Governor

April 30, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
1454		27	4:17 p.m. April 30	April 30
	486	28	4:15 p.m. April 30	April 30
462		29	4:19 p.m. April 30	April 30
261		30	4:20 p.m. April 30	April 30

Sincerely,  
Mark Ritchie  
Secretary of State

May 1, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
	334	31	3:07 p.m. May 1	May 1
	801	32	3:08 p.m. May 1	May 1

Sincerely,  
Mark Ritchie  
Secretary of State

**MESSAGES FROM THE HOUSE**

Mr. President:

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

**S.F. No. 550:** A bill for an act relating to energy; providing for energy conservation; regulating utility rates; removing prohibition on issuing certificate of need for new nuclear power plant; providing for various Legislative Energy Commission studies; regulating utilities; amending Minnesota Statutes 2008, sections 216A.03, subdivision 6, by adding a subdivision; 216B.16, subdivisions 2, 6c, 7b, by adding a subdivision; 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 5a, 9; 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.243, subdivisions 3b, 8, 9; 216C.11; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Laws 2007, chapter 3, section 3.

Senate File No. 550 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 30, 2009

Senator Prettner Solon moved that the Senate do not concur in the amendments by the House to S.F. No. 550, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 657:** A bill for an act relating to energy; providing direction for the use of federal stimulus money for energy programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216C.

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

Kalin, Hilty, Sailer, Brynaert and McNamara.

Senate File No. 657 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 30, 2009

**REPORTS OF COMMITTEES**

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1542 and the report pertaining to appointments. The motion prevailed.

**Senator Chaudhary from the Committee on Environment and Natural Resources, to which was referred**

**S.F. No. 1542:** A bill for an act relating to environment; directing Pollution Control Agency to adopt rules to limit emissions of high global warming potential gases; amending Minnesota Statutes 2008, section 216H.10, subdivisions 1, 7; proposing coding for new law in Minnesota Statutes, chapter 216H.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 216H.10, subdivision 7, is amended to read:

Subd. 7. **High-GWP greenhouse gas.** "High-GWP greenhouse gas" means hydrofluorocarbons, perfluorocarbons, ~~and sulfur hexafluoride, nitrous trifluoride, and any other gas the agency determines by rule to have a high-global warming potential.~~

Sec. 2. Minnesota Statutes 2008, section 216H.11, is amended to read:

**216H.11 HIGH-GWP GREENHOUSE GAS REPORTING.**

Subdivision 1. **Gas manufacturers.** ~~Beginning By October 1, 2008, and each year thereafter,~~ a manufacturer of a high-GWP greenhouse gas must report to the agency the total amount of each high-GWP greenhouse gas sold to a purchaser in this state during the previous year.

Subd. 2. **Purchases.** ~~Beginning By October 1, 2008, and each year thereafter,~~ a person ~~in this state~~ who purchases ~~500~~ 10,000 metric tons or more carbon dioxide equivalent of a high-GWP greenhouse gas for use or retail sale in this state must report to the agency, on a form prescribed by the commissioner, the total amount of each high-GWP greenhouse gas purchased for use or retail sale in this state during the previous year and the purpose for which the gas was used. The commissioner may adopt rules under chapter 14 to establish a different reporting threshold, or to adopt specific reporting requirements for commercial or industrial facilities that purchase high-GWP gases for use or retail sale in this state.

Subd. 3. **Acceptance of federal filing.** With the approval of the commissioner, this section may be satisfied by filing with the commissioner a copy of a greenhouse gas emissions report filed with a federal agency or a regional or national greenhouse gas registry, provided that the entity with which the report is filed requires the emissions data to be verified."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before "high" and insert "modifying reporting requirements for"

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

**Senator Moua from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1126:** A bill for an act relating to real property; modifying procedures relating to uses and conveyances of tax-forfeited property; amending Minnesota Statutes 2008, sections 282.01, subdivisions 1, 1a, 1b, 1c, 1d, 2, 3, 4, 7, 7a, by adding a subdivision; 287.2205; repealing Minnesota Statutes 2008, sections 282.01, subdivisions 9, 10, 11; 383A.76.

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

Page 3, line 2, delete everything after "site" and insert a period

Page 3, line 3, delete everything before "The" and insert "The notice must also be mailed or otherwise delivered to each person who has filed a request for notice of special meetings with the public body, regardless of whether the matter is considered at a regular or special meeting. The notice must be mailed or delivered at least 60 days before the date of the meeting. If the meeting is rescheduled, notice of the new date, time, and location must be mailed or delivered at least 14 days before the date of the rescheduled meeting. The public body shall publish the notice once, at least ten days before the meeting, in a newspaper of general circulation within the area of the public body's authority."

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

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

**S.F. No. 1155:** A bill for an act relating to human services; changing capacity requirements for certain residential programs; requiring the commissioner to request federal waivers; amending Minnesota Statutes 2008, sections 245A.11, subdivision 2a; 256B.092, by adding a subdivision; 256B.49, subdivision 17; repealing Minnesota Statutes 2008, section 256B.092, subdivision 5a.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

**S.F. No. 1036:** A bill for an act relating to state government; ratifying state labor contracts.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

**S.F. No. 798:** A bill for an act relating to civil proceedings; removing a dollar limitation on attorney or agent fees in certain cases; amending Minnesota Statutes 2008, section 15.471, subdivision 5.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

**S.F. No. 1005:** A bill for an act relating to transportation; bridges; establishing Stillwater lift bridge endowment account; proposing coding for new law in Minnesota Statutes, chapter 165.

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

Page 1, line 7, delete "special revenue fund in the"

Page 1, line 14, after the period, insert "No money from this account may be used for any purposes except those described in this section, and no money from this account may be transferred to any other account in the state treasury without specific legislative authorization. Any money transferred from the trunk highway fund may only be used for trunk highway purposes."

Page 1, line 17, delete "fund" and insert "account"

Page 2, lines 5 and 13, delete "fund" and insert "account"

Page 2, line 10, after "determines" insert ", in consultation with the State Historic Preservation Office,"

Page 2, line 12, after "purpose" insert ", except that only funds originally contributed by the state or federal government can be used to pay for demolition. Any money remaining in the account after demolition must be used to pay for the preservation of other historic bridges in consultation with the State Historic Preservation Office"

Page 2, after line 13, insert:

"Subd. 8. **Reports required.** The commissioner of transportation shall report annually to the chair and ranking minority member of each legislative committee with jurisdiction over transportation on the endowment account. At a minimum, the report must include detailed revenue and expenditure information."

Amend the title accordingly

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

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

**S.F. No. 1284:** A bill for an act relating to lawful gambling; modifying lawful purpose and other definitions; establishing a rating system for annual lawful purpose expenditures and imposing civil penalties; modifying provisions relating to licensing and permits and providing for fees; regulating conduct of bingo and other games; modifying lease requirements; regulating who may participate in lawful gambling; providing for expenditures of gross profits; prohibiting the use of debit cards for certain gambling purposes; providing for local approval; making clarifying, technical, and conforming changes to lawful gambling provisions; amending Minnesota Statutes 2008, sections 349.11; 349.12, subdivisions 3a, 7, 7a, 12a, 18, 19, 21, 25, 29, 32a, 33; 349.15, subdivisions 1, 1a; 349.151, subdivision 4; 349.154, subdivision 1; 349.155, subdivisions 3, 4a; 349.16, subdivisions 2, 3, 6, 8, 11, by adding subdivisions; 349.162, subdivision 6; 349.1635, subdivision 3; 349.1641; 349.165, subdivisions 1, 2, 3, by adding a subdivision; 349.166, subdivision 2; 349.167, subdivision 2; 349.168, subdivision 8; 349.169, subdivisions 1, 3; 349.17, subdivisions 3, 5, 6, 7; 349.173; 349.18, subdivision 1; 349.19, subdivisions 2, 2a, 3, 10; 349.191, subdivisions 1, 1a, 1b, 2, 3, 4; 349.2127, subdivision 7; 349.213, subdivisions 1, 2; proposing coding for new law in Minnesota

Statutes, chapter 349; repealing Minnesota Statutes 2008, sections 349.15, subdivisions 4, 5; 349.154, subdivision 2; 349.155, subdivision 7; 349.16, subdivisions 9, 10; 349.166, subdivision 3; 349.168, subdivisions 4, 6, 7, 10; 349.18, subdivisions 2, 3; 349.2127, subdivision 8.

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

Page 1, after line 23, insert:

"Section 1. Minnesota Statutes 2008, section 297E.06, subdivision 4, is amended to read:

Subd. 4. **Annual audit, certified inventory, and cash count.** (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than ~~\$300,000~~ \$500,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year. ~~An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$150,000 but not more than \$300,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year.~~

(b) The commissioner may require a financial audit of the lawful gambling activities and funds of an organization licensed under chapter 349, with gross receipts less than \$500,000 annually, when an organization has:

- (1) failed to timely file required gambling tax returns;
- (2) failed to timely pay the gambling tax or regulatory fee;
- (3) filed fraudulent gambling tax returns;
- (4) failed to take corrective actions required by the commissioner; or
- (5) failed to otherwise comply with chapter 297E.

~~(b)~~ (c) Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.

(d) An organization licensed under chapter 349 must perform an annual certified inventory and cash count at the end of its fiscal year and submit the report to the commissioner within 30 days after the end of its fiscal year. The report shall be on a form prescribed by the commissioner.

(e) The commissioner of revenue shall prescribe standards for the audits and financial review, certified inventory, and cash count reports required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American Institute of Certified Public Accountants. A complete, true, and correct copy of the ~~audit~~ audits, certified inventory, and cash count report must be filed as prescribed by the commissioner."

Page 17, line 26, strike "three months" and insert "45 days"

Page 30, after line 31, insert:

"Sec. 50. Minnesota Statutes 2008, section 349.19, subdivision 9, is amended to read:

Subd. 9. **Annual financial audit; filing requirement.** An organization licensed under this chapter must have an annual financial audit ~~or financial review~~ when required by section 297E.06,

subdivision 4."

Renumber the sections in sequence

Amend the title numbers accordingly

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

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

**H.F. No. 928:** A bill for an act relating to transportation; modifying various provisions related to transportation or public safety; prohibiting certain acts; amending Minnesota Statutes 2008, sections 161.14, subdivision 62, as added, by adding subdivisions; 168.33, subdivision 2; 169.011, by adding a subdivision; 169.045; 169.15; 169.306; 169.71, subdivision 1; 171.12, subdivision 6; 174.86, subdivision 5; 221.012, subdivision 38, by adding a subdivision; 221.0252, by adding a subdivision; 473.167, subdivision 2a; Laws 2008, chapter 287, article 1, section 122; proposing coding for new law in Minnesota Statutes, chapters 160; 171; 174; 299C.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 64. **Granite City Crossing.** The bridge over the Mississippi River on marked Trunk Highway 23 in St. Cloud is designated "Granite City Crossing." The commissioner of transportation shall adopt a suitable design to mark this bridge and erect appropriate signs, subject to section 161.139.

Sec. 2. Minnesota Statutes 2008, section 165.14, subdivision 4, is amended to read:

Subd. 4. **Prioritization of bridge projects.** (a) The commissioner shall classify all bridges in the program into tier 1, 2, or 3 bridges, where tier 1 is the highest tier. Unless the commissioner identifies a reason for proceeding otherwise, before commencing bridge projects in a lower tier, all bridge projects within a higher tier must to the extent feasible be selected and funded in the approved state transportation improvement program, at any stage in the project development process, solicited for bids, in contract negotiation, under construction, or completed.

(b) The classification of each tier is as follows:

(1) tier 1 consists of any bridge in the program that (i) has an average daily traffic count that is above 1,000 and has a sufficiency rating that is at or below 50, or (ii) is identified by the commissioner as a priority project;

(2) tier 2 consists of any bridge that is not a tier 1 bridge, and (i) is classified as fracture-critical, or (ii) has a sufficiency rating that is at or below 80; and

(3) tier 3 consists of any other bridge in the program that is not a tier 1 or tier 2 bridge.

(c) By June 30, 2018, all tier 1 and tier 2 bridges originally included in the program must be under contract for repair or replacement with a new bridge that contains a load-path-redundant design,

except that a specific bridge may remain in continued service if the reasons are documented in the report required under subdivision 5.

(d) All bridge projects funded under this section in fiscal year 2010 or later must include bicycle and pedestrian accommodations if both sides of the bridge are located in a city or the bridge links a pedestrian way, shared-use path, trail, or scenic bikeway.

Bicycle and pedestrian accommodations would not be required if:

(1) a comprehensive assessment demonstrates that there is an absence of need for bicycle and pedestrian accommodations for the life of the bridge; or

(2) there is a reasonable alternative bicycle and pedestrian crossing within one-quarter mile of the bridge project.

All bicycle and pedestrian accommodations should enable a connection to any existing bicycle and pedestrian infrastructure in close proximity to the bridge. All pedestrian facilities must meet or exceed federal accessibility requirements as outlined in Title II of the Americans with Disabilities Act, codified in United States Code, title 42, chapter 126, subchapter II, and Section 504 of the Rehabilitation Act of 1973, codified in United States Code, title 29, section 794.

(e) The commissioner shall establish criteria for determining the priority of bridge projects within each tier, and must include safety considerations as a criterion.

Sec. 3. Minnesota Statutes 2008, section 165.14, subdivision 5, is amended to read:

Subd. 5. **Statewide transportation planning report.** In conjunction with each update to the Minnesota statewide transportation plan, or at least every six years, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance. The report must include:

(1) an explanation of the criteria and decision-making processes used to prioritize bridge projects;

(2) a historical and projected analysis of the extent to which all trunk highway bridges meet bridge performance targets and comply with the accessibility requirements of Title II of the Americans with Disabilities Act;

(3) a summary of bridge projects (i) completed in the previous six years or since the last update to the Minnesota statewide transportation plan, and (ii) currently in progress under the program;

(4) a summary of bridge projects scheduled in the next four fiscal years and included in the state transportation improvement program;

(5) a projection of annual needs over the next 20 years;

(6) a calculation of funding necessary to meet the completion date under subdivision 4, paragraph (c), compared to the total amount of bridge-related funding available; and

(7) for any tier 1 fracture-critical bridge that is repaired but not replaced, an explanation of the reasons for repair instead of replacement.

Sec. 4. Minnesota Statutes 2008, section 168.33, subdivision 2, is amended to read:

Subd. 2. **Deputy registrars.** (a) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, without regard to whether the county auditor of the county in which the city is situated has been appointed as the deputy registrar for the county or has been discontinued as the deputy registrar for the county, and without regard to whether the county in which the city is situated has established a county license bureau that issues motor vehicle licenses as provided in section 373.32.

(b) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, if the auditor for the county in which the city is situated chooses not to accept appointment as the deputy registrar for the county or is discontinued as a deputy registrar, or if the county in which the city is situated has not established a county license bureau that issues motor vehicle licenses as provided in section 373.32. The individual appointed by the commissioner as a deputy registrar for any statutory or home rule charter city must be a resident of the county in which the city is situated.

(c) The commissioner may appoint, and for cause discontinue, the county auditor of each county as a deputy registrar.

(d) Despite any other provision, a person other than a county auditor or a director of a county license bureau, who was appointed by the registrar before August 1, 1976, as a deputy registrar for any statutory or home rule charter city, may continue to serve as deputy registrar and may be discontinued for cause only by the commissioner. The county auditor who appointed the deputy registrars is responsible for the acts of deputy registrars appointed by the auditor.

(e) Each deputy, before entering upon the discharge of duties, shall take and subscribe an oath to faithfully discharge the duties and to uphold the laws of the state.

(f) If a deputy registrar appointed under this subdivision is not an officer or employee of a county or statutory or home rule charter city, the deputy shall in addition give bond to the state in the sum of \$10,000, or a larger sum as may be required by the commissioner, conditioned upon the faithful discharge of duties as deputy registrar.

(g) ~~Until January 1, 2012,~~ A corporation governed by chapter 302A may be appointed a deputy registrar. Upon application by an individual serving as a deputy registrar and the giving of the requisite bond as provided in this subdivision, personally assured by the individual or another individual approved by the commissioner, a corporation named in an application then becomes the duly appointed and qualified successor to the deputy registrar. ~~The appointment of any corporation as a deputy registrar expires January 1, 2012. The commissioner shall appoint an individual as successor to the corporation as a deputy registrar. The commissioner shall appoint as the successor agent to a corporation whose appointment expires under this paragraph an officer of the corporation if the officer applies for appointment before July 1, 2012.~~

(h) Each deputy registrar appointed under this subdivision shall keep and maintain office locations approved by the commissioner for the registration of vehicles and the collection of taxes and fees on vehicles.

(i) The deputy registrar shall keep records and make reports to the commissioner as the commissioner requires. The records must be maintained at the offices of the deputy registrar. The records and offices of the deputy registrar must at all times be open to the inspection of the commissioner or the commissioner's agents. The deputy registrar shall report to the commissioner

by the next working day following receipt all registrations made and taxes and fees collected by the deputy registrar.

(j) The filing fee imposed under subdivision 7 must be deposited in the treasury of the place for which appointed or, if not a public official, a deputy shall retain the filing fee, but the registration tax and any additional fees for delayed registration the deputy registrar has collected the deputy registrar shall deposit by the next working day following receipt in an approved state depository to the credit of the state through the commissioner of finance. The place for which the deputy registrar is appointed through its governing body must provide the deputy registrar with facilities and personnel to carry out the duties imposed by this subdivision if the deputy is a public official. In all other cases, the deputy shall maintain a suitable facility for serving the public.

Sec. 5. Minnesota Statutes 2008, section 168.33, subdivision 7, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

- (1) \$4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and
- (2) \$8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) The statutory fees and taxes, and the filing fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the statutory fees, taxes, and filing fee not greater than the cost of processing a credit card or debit card transaction.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into the vehicle services operating account in the special revenue fund under section 299A.705. Of the fee collected under paragraph (a), clause (2), by the department, \$3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

**EFFECTIVE DATE.** This section is effective for fees collected on and after August 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 168B.06, subdivision 1, is amended to read:

Subdivision 1. **Written notice of impound.** (a) When an impounded vehicle is taken into custody, the unit of government or impound lot operator taking it into custody shall give written notice of the taking within five days to the registered vehicle owner and any lienholders.

(b) The notice must:

- (1) set forth the date and place of the taking;
- (2) provide the year, make, model, and serial number of the impounded motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held;
- (3) inform the owner and any lienholders of their right to reclaim the vehicle under section

168B.07;

(4) state that failure of the owner or lienholders to:

(i) exercise their right to reclaim the vehicle within the appropriate time allowed under section 168B.051, subdivision 1, 1a, or 2, and under the conditions set forth in section 168B.07, subdivision 1, constitutes a waiver by them of all right, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle pursuant to section 168B.08; or

(ii) exercise their right to reclaim the contents of the vehicle within the appropriate time allowed and under the conditions set forth in section 168B.07, subdivision 3, constitutes a waiver by them of all right, title, and interest in the contents and consent to sell or dispose of the contents under section 168B.08; and

(5) state that a vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, ~~or has a household income at or below 50 percent of state median income~~ has the unencumbered right to retrieve any and all contents without charge.

Sec. 7. Minnesota Statutes 2008, section 168B.07, subdivision 3, is amended to read:

Subd. 3. **Retrieval of contents.** (a) For purposes of this subdivision:

(1) "contents" does not include any permanently affixed mechanical or nonmechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players; and

(2) "relief based on need" includes, but is not limited to, receipt of MFIP and Diversionary Work Program, medical assistance, general assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, MSA-emergency assistance, MinnesotaCare, Supplemental Security Income, energy assistance, emergency assistance, food stamps, earned income tax credit, or Minnesota working family tax credit.

(b) A unit of government or impound lot operator shall establish reasonable procedures for retrieval of vehicle contents, and may establish reasonable procedures to protect the safety and security of the impound lot and its personnel.

(c) At any time before the expiration of the waiting periods provided in section 168B.051, a registered owner who provides documentation from a government or nonprofit agency or legal aid office that the registered owner is homeless, receives relief based on need, or is eligible for legal aid services, ~~or has a household income at or below 50 percent of state median income~~ has the unencumbered right to retrieve any and all contents without charge and regardless of whether the registered owner pays incurred charges or fees, transfers title, or reclaims the vehicle.

Sec. 8. Minnesota Statutes 2008, section 169.041, subdivision 5, is amended to read:

Subd. 5. **Towing prohibited.** ~~Unless the vehicle is described in subdivision 4,~~ (a) A towing authority may not tow a motor vehicle because:

(1) the vehicle has expired registration tabs that have been expired for less than 90 days; or

(2) the vehicle is at a parking meter on which the time has expired and the vehicle has fewer

than five unpaid parking tickets.

(b) A towing authority may tow a motor vehicle, notwithstanding paragraph (a), if:

(1) the vehicle is parked in violation of snow emergency regulations;

(2) the vehicle is parked in a rush-hour restricted parking area;

(3) the vehicle is blocking a driveway, alley, or fire hydrant;

(4) the vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited;

(5) the vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign;

(6) the vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates;

(7) the vehicle is parked in an area that has been posted for temporary restricted parking (A) at least 12 hours in advance in a home rule charter or statutory city having a population under 50,000, or (B) at least 24 hours in advance in another political subdivision;

(8) the vehicle is parked within the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed there;

(9) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police, public safety, or emergency vehicles;

(10) the vehicle is unlawfully parked on property at the Minneapolis-St. Paul International Airport owned by the Metropolitan Airports Commission;

(11) a law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence;

(12) the driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping;

(13) a law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses;

(14) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs;

(15) the vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle;

(16) the vehicle is parked, on a school day during prohibited hours, in a school zone on a public street where official signs prohibit parking; or

(17) the vehicle is a junk, abandoned, or unauthorized vehicle, as defined in section 168B.011, and subject to immediate removal under chapter 168B.

Sec. 9. Minnesota Statutes 2008, section 169.13, is amended by adding a subdivision to read:

Subd. 4. **Careless driving resulting in death.** (a) A person who drives, operates, or halts a

vehicle anywhere in this state, carelessly or heedlessly in disregard of the rights or safety of others, including the driver or passenger of the vehicle, which results in the death of any person is guilty of a gross misdemeanor.

(b) Notwithstanding section 609.035 or 609.04 or other law to the contrary, a prosecution for or a conviction, juvenile adjudication, or finding of a violation of this section is not a bar to a conviction, juvenile adjudication, finding of a violation, or punishment for any other crime, delinquent act, or juvenile petty offense as part of the same conduct.

Sec. 10. Minnesota Statutes 2008, section 169.15, is amended to read:

**169.15 IMPEDING TRAFFIC; INTERSECTION GRIDLOCK.**

Subdivision 1. **Impeding traffic; drive at slow speed.** No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or except when the vehicle is temporarily unable to maintain a greater speed due to a combination of the weight of the vehicle and the grade of the highway.

Subd. 2. **Intersection gridlock; stop or block traffic.** No driver of a motor vehicle shall enter an intersection controlled by a semaphore until the vehicle is able to move completely through the intersection without impeding or blocking the subsequent movement of cross traffic, unless such movement is at the direction of a city-authorized traffic-control agent or a police officer or to facilitate passage of an authorized emergency vehicle. A violation of this subdivision does not constitute grounds for suspension or revocation of the violator's driver's license.

**EFFECTIVE DATE.** This section is effective January 1, 2010, and applies to acts committed on or after that date.

Sec. 11. Minnesota Statutes 2008, section 169.71, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions generally; exceptions.** (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision;

(2) any objects suspended between the driver and the windshield, other than:

(i) sun visors ~~and~~;

(ii) rearview mirrors;

(iii) driver feedback and safety-monitoring equipment when mounted immediately behind, slightly above, or slightly below the rearview mirror;

(iv) global positioning systems or navigation systems when mounted or located near the bottommost portion of the windshield; and

(v) electronic toll collection devices; or

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of the vehicle, other than a certificate or other paper required to be so displayed by law or authorized by the state director of the Division of Emergency Management or

the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

Sec. 12. Minnesota Statutes 2008, section 169A.275, subdivision 7, is amended to read:

Subd. 7. **Exception.** (a) A judge is not required to sentence a person as provided in this section if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

(b) This subdivision expires July 1, ~~2009~~ 2011.

Sec. 13. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

Subd. 37a. **Enhanced driver's license.** "Enhanced driver's license" means a license, instruction permit, or provisional license, to operate a motor vehicle issued or issuable under the laws of this state by the commissioner of public safety that denotes citizenship and identity and contains technology and security features approved by the secretary of the United States Department of Homeland Security. An enhanced driver's license may be used in the same manner as a driver's license, instruction permit, or provisional license, and is approved by the secretary of the United States Department of Homeland Security for purposes of entering the United States. All provisions in this chapter relating to drivers' licenses, instruction permits, and provisional licenses, including cancellation, suspension, revocation, reinstatement, examination, restriction, expiration, renewal, and unlawful acts and violations, apply to an enhanced driver's license.

Sec. 14. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

Subd. 37b. **Enhanced identification card.** "Enhanced identification card" means an identification card issued or issuable under the laws of this state by the commissioner of public safety that denotes citizenship and identity and contains technology and security features approved by the secretary of the United States Department of Homeland Security. An enhanced identification card may be used in the same manner as an identification card and is approved by the secretary of the United States Department of Homeland Security for purposes of entering the United States.

Sec. 15. Minnesota Statutes 2008, section 171.04, is amended by adding a subdivision to read:

Subd. 3. **Persons not eligible for enhanced driver's license.** The department shall not issue an enhanced driver's license to any person who is:

- (1) under 16 years of age;
- (2) not a resident of this state;
- (3) not a citizen of the United States of America; or
- (4) described in subdivision 1, clauses (4) to (12), or (14).

Sec. 16. Minnesota Statutes 2008, section 171.06, subdivision 1, is amended to read:

Subdivision 1. **Forms of application.** Every application for a Minnesota identification card, for an enhanced identification card, for an instruction permit, for a provisional license, or for a driver's

license, or for an enhanced driver's license must be made in a format approved by the department, and every application must be accompanied by the proper fee. All first-time applications and change-of-status applications must be signed in the presence of the person authorized to accept the application, or the signature on the application may be verified by a notary public. All applications requiring evidence of legal presence in the United States or United States citizenship must be signed in the presence of the person authorized to accept the application, or the signature on the application may be verified by a notary public.

Sec. 17. Minnesota Statutes 2008, section 171.06, subdivision 2, is amended to read:

Subd. 2. **Fees.** (a) The fees for a license and Minnesota identification card are as follows:

Classified Driver's License	D-\$22.25	C-\$26.25	B-\$33.25	A-\$41.25
Classified Under-21 D.L.	D-\$22.25	C-\$26.25	B-\$33.25	A-\$21.25
<u>Enhanced Driver's License</u>	<u>D-\$37.25</u>	<u>C-\$41.75</u>	<u>B-\$48.25</u>	<u>A-\$56.25</u>
Instruction Permit				\$10.25
<u>Enhanced Instruction Permit</u>				<u>\$25.25</u>
Provisional License				\$13.25
<u>Enhanced Provisional License</u>				<u>\$28.25</u>
Duplicate License or duplicate identification card				\$11.75
<u>Enhanced Duplicate License or enhanced duplicate identification card</u>				<u>\$26.75</u>
Minnesota identification card or Under-21 Minnesota identification card, other than duplicate, except as otherwise provided in section 171.07, subdivisions 3 and 3a				\$16.25
<u>Enhanced Minnesota identification card</u>				<u>\$31.25</u>

In addition to each fee required in this paragraph, the commissioner shall collect a surcharge of \$1.75 until June 30, 2012. Surcharges collected under this paragraph must be credited to the driver and vehicle services technology account in the special revenue fund under section 299A.705.

(b) Notwithstanding paragraph (a), an individual who holds a provisional license and has a driving record free of (1) convictions for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (2) convictions for crash-related moving violations, and (3) convictions for moving violations that are not crash related, shall have a \$3.50 credit toward the fee for any classified under-21 driver's license. "Moving violation" has the meaning given it in

section 171.04, subdivision 1.

(c) In addition to the driver's license fee required under paragraph (a), the commissioner shall collect an additional \$4 processing fee from each new applicant or individual renewing a license with a school bus endorsement to cover the costs for processing an applicant's initial and biennial physical examination certificate. The department shall not charge these applicants any other fee to receive or renew the endorsement.

Sec. 18. Minnesota Statutes 2008, section 171.06, subdivision 3, is amended to read:

Subd. 3. **Contents of application; other information.** (a) An application must:

(1) state the full name, date of birth, sex, and either (i) the residence address of the applicant, or (ii) designated address under section 5B.05;

(2) as may be required by the commissioner, contain a description of the applicant and any other facts pertaining to the applicant, the applicant's driving privileges, and the applicant's ability to operate a motor vehicle with safety;

(3) state:

(i) the applicant's Social Security number; or

(ii) if the applicant does not have a Social Security number and is applying for a Minnesota identification card, instruction permit, or class D provisional or driver's license, that the applicant certifies that the applicant does not have a Social Security number;

(4) in the case of an application for an enhanced driver's license or enhanced identification card, present:

(i) proof satisfactory to the commissioner of the applicant's full legal name, United States citizenship, identity, date of birth, Social Security number, and residence address; and

(ii) a photographic identity document;

(5) contain a space where the applicant may indicate a desire to make an anatomical gift according to paragraph (b); and

~~(5)~~ (6) contain a notification to the applicant of the availability of a living will/health care directive designation on the license under section 171.07, subdivision 7.

(b) If the applicant does not indicate a desire to make an anatomical gift when the application is made, the applicant must be offered a donor document in accordance with section 171.07, subdivision 5. The application must contain statements sufficient to comply with the requirements of the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A, so that execution of the application or donor document will make the anatomical gift as provided in section 171.07, subdivision 5, for those indicating a desire to make an anatomical gift. The application must be accompanied by information describing Minnesota laws regarding anatomical gifts and the need for and benefits of anatomical gifts, and the legal implications of making an anatomical gift, including the law governing revocation of anatomical gifts. The commissioner shall distribute a notice that must accompany all applications for and renewals of a driver's license or Minnesota identification card. The notice must be prepared in conjunction with a Minnesota organ procurement organization

that is certified by the federal Department of Health and Human Services and must include:

(1) a statement that provides a fair and reasonable description of the organ donation process, the care of the donor body after death, and the importance of informing family members of the donation decision; and

(2) a telephone number in a certified Minnesota organ procurement organization that may be called with respect to questions regarding anatomical gifts.

(c) The application must be accompanied also by information containing relevant facts relating to:

(1) the effect of alcohol on driving ability;

(2) the effect of mixing alcohol with drugs;

(3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and

(4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations.

Sec. 19. Minnesota Statutes 2008, section 171.06, subdivision 6, is amended to read:

Subd. 6. **Compliance with selective service system registration requirements.** (a) By applying for an original, duplicate, or renewal instruction permit, provisional driver's license, driver's license, enhanced driver's license, commercial driver's license, or state identification card, or enhanced identification card, an applicant under the age of 26, who is a United States citizen or resident, consents to registration in compliance with the requirements of the Military Selective Service Act, United States Code, title 50, appendix, section 453. The application form must state that submission of the application constitutes consent to registration with the selective service system, if required by federal law.

(b) The commissioner shall forward to the selective service system in an electronic format the necessary personal information required for registration of an applicant described in paragraph (a). If the applicant is under the age of 18, and the license or card to be issued will expire after the applicant's 18th birthday, then the commissioner shall forward the necessary information to the selective service system when the applicant reaches the age of 18.

Sec. 20. Minnesota Statutes 2008, section 171.07, subdivision 3, is amended to read:

Subd. 3. **Identification card; fee.** (a) Upon payment of the required fee, the department shall issue to every qualifying applicant a Minnesota identification card. The department may not issue a Minnesota identification card to an individual who has a driver's license, other than a limited license. The department may not issue an enhanced identification card to an individual who is under 16 years of age, not a resident of this state, or not a citizen of the United States of America. The card must bear a distinguishing number assigned to the applicant; a colored photograph or an electronically produced image of the applicant; the applicant's full name and date of birth; either (1) the licensee's residence address, or (2) the designated address under section 5B.05; a description of the applicant in the manner as the commissioner deems necessary; and the usual signature of the applicant.

(b) If the United States Postal Service will not deliver mail to the applicant's residence address

as listed on the Minnesota identification card, then the applicant shall provide verification from the United States Postal Service that mail will not be delivered to the applicant's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the applicant's residence address for all notices and mailings to the applicant.

(c) Each identification card issued to an applicant under the age of 21 must be of a distinguishing color and plainly marked "Under-21."

(d) Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license."

(e) The fee for a Minnesota identification card is 50 cents when issued to a person who is developmentally disabled, as defined in section 252A.02, subdivision 2; a physically disabled person, as defined in section 169.345, subdivision 2; or, a person with mental illness, as described in section 245.462, subdivision 20, paragraph (c).

Sec. 21. Minnesota Statutes 2008, section 171.07, is amended by adding a subdivision to read:

Subd. 9a. **Security for enhanced driver's license and identification card.** An enhanced driver's license or enhanced identification card must include reasonable security measures to prevent counterfeiting and to protect against unauthorized disclosure of personal information regarding residents of this state that is contained in the enhanced driver's license or enhanced identification card. The enhanced driver's license must include the best available anticounterfeit laminate technology. The enhanced driver's license or enhanced identification card may include radio frequency identification technology that is limited to a randomly assigned number, which must be encrypted if agreed to by the United States Department of Homeland Security and does not include biometric data or any information other than the citizenship status of the license holder or cardholder. The commissioner shall ensure that the radio frequency identification technology is secure from unauthorized data access. An applicant must sign an acknowledgment of understanding of the radio frequency identification technology and its use for the sole purpose of verifying United States citizenship before being issued an enhanced driver's license or an enhanced identification card.

Sec. 22. Minnesota Statutes 2008, section 171.07, is amended by adding a subdivision to read:

Subd. 15. **Enhanced driver's license and identification card.** For purposes of this section, "license" includes "enhanced driver's license," and "identification card" includes "enhanced identification card."

Sec. 23. Minnesota Statutes 2008, section 171.071, is amended by adding a subdivision to read:

Subd. 3. **Exception.** Subdivisions 1 and 2 do not apply to the commissioner's requirements pertaining to a photograph or electronically produced image on an enhanced driver's license or an enhanced identification card.

Sec. 24. Minnesota Statutes 2008, section 171.18, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The commissioner may suspend the license of a driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

(1) has committed an offense for which mandatory revocation of license is required upon conviction;

(2) has been convicted by a court for violating a provision of chapter 169 or an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and department records show that the violation contributed in causing an accident resulting in the death or personal injury of another, or serious property damage;

(3) is an habitually reckless or negligent driver of a motor vehicle;

(4) is an habitual violator of the traffic laws;

(5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has committed an offense in another state that, if committed in this state, would be grounds for suspension;

(8) has committed a violation of section 169.444, subdivision 2, paragraph (a), within five years of a prior conviction under that section;

(9) has committed a violation of section 171.22, except that the commissioner may not suspend a person's driver's license based solely on the fact that the person possessed a fictitious or fraudulently altered Minnesota identification card;

(10) has failed to appear in court as provided in section 169.92, subdivision 4;

(11) has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges;

(12) has been found to have committed an offense under section 169A.33; or

(13) has paid or attempted to pay a fee required under this chapter for a license or permit by means of a dishonored check issued to the state or a driver's license agent, which must be continued until the registrar determines or is informed by the agent that the dishonored check has been paid in full.

However, an action taken by the commissioner under clause (2) or (5) must conform to the recommendation of the court when made in connection with the prosecution of the licensee.

(b) Notwithstanding paragraph (a), section 171.16, subdivision 2, or any other law, the commissioner may not suspend the driver's license of an individual under paragraph (a) who was convicted of a violation of section 171.24, subdivision 1, whose license was under suspension at the time solely because of the individual's failure to appear in court or failure to pay a fine 1a.

Sec. 25. Minnesota Statutes 2008, section 171.24, is amended by adding a subdivision to read:

Subd. 1a. **Driving after suspension for failure to appear or pay fines; misdemeanor.** A person is guilty of a misdemeanor if:

(1) the person's driver's license or driving privilege has been suspended for no reason other than unpaid fines or failure to appear in court;

(2) the person has been given notice of or reasonably should know of the suspension; and

(3) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver's license, while the person's license or privilege is suspended.

Sec. 26. Minnesota Statutes 2008, section 171.306, subdivision 1, is amended to read:

Subdivision 1. **Pilot project established; reports.** The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. ~~The commissioner shall select one metropolitan county and one rural county to participate in the pilot project.~~ The pilot project must begin on July 1, ~~2007~~ 2009, and continue until June 30, ~~2009~~ 2011. The commissioner shall submit ~~two~~ a preliminary ~~reports~~ report by ~~February 1, 2008, and by December 1, 2008~~ September 30, 2010, and a final report by ~~September 1 30, 2009~~ 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project.

Sec. 27. Minnesota Statutes 2008, section 171.306, subdivision 3, is amended to read:

Subd. 3. **Pilot project components.** (a) Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked or canceled under: (1) chapter 169A for a repeat an impaired driving incident; (2) section 169A.33 for underage drinking and driving; or (3) section 609.21 for criminal vehicular homicide or operation, if the person qualifies under this section and agrees to all of the conditions of the project.

(b) The commissioner must denote the person's driver's license record to indicate the person's participation in the program. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.

(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock pilot program shall be subject to this program, and when the person is eligible to be issued:

- (1) a limited driver's license subject to the ignition interlock restriction;
- (2) full driving privileges subject to the ignition interlock restriction; and
- (3) a driver's license without an ignition interlock restriction.

(d) A person participating in this pilot project shall agree to participate in any treatment recommended by a chemical use assessment.

(e) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.

(f) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an ignition interlock device.

(g) No driver's license, criminal, or probation violation sanction relating to positive alcohol

tests may be assessed upon a participant, unless the device in use provides a method for positive identification of the individual providing the breath sample.

Sec. 28. Minnesota Statutes 2008, section 174.01, subdivision 1, is amended to read:

Subdivision 1. **Department created.** In order to provide a ~~balanced~~ an integrated transportation system, ~~including~~ of aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, and including facilities for walking and bicycling, a Department of Transportation is created. The department is the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans, and programs.

Sec. 29. Minnesota Statutes 2008, section 174.01, subdivision 2, is amended to read:

Subd. 2. **Transportation goals.** The goals of the state transportation system are as follows:

(1) to ~~provide safe transportation~~ minimize fatalities and injuries for transportation users throughout the state;

(2) to provide multimodal and intermodal transportation ~~that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no~~ facilities and services to increase access for all persons and businesses and to ensure economic well-being and quality of life without undue burden placed on any community;

(3) to provide a reasonable travel time for commuters;

(4) to enhance economic development and provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;

(5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists and to enhance the appeal, through transportation investments, of tourist destinations across the state;

(6) to provide transit services ~~throughout~~ to all counties in the state to meet the needs of transit users;

(7) to promote ~~productivity~~ accountability through system ~~systematic management of system performance and productivity through the utilization of technological advancements;~~

(8) to maximize the long-term benefits received for each state transportation investment;

(9) to provide for and prioritize funding for of transportation investments that, at a minimum, ~~preserves the transportation infrastructure~~ ensures that the state's transportation infrastructure is maintained in a state of good repair;

(10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;

(11) to promote and increase the use of high-occupancy vehicles and low-emission vehicles;

(12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;

(13) to increase ~~transit~~ use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;

(14) to promote and increase bicycling and walking as a percentage of all trips as an energy-efficient, nonpolluting, and ~~healthful form~~ healthy forms of transportation;

(15) to reduce greenhouse gas emissions from the state's transportation sector; and

(16) to accomplish these goals with minimal impact on the environment.

**Sec. 30. [174.015] REDUCING VEHICLE MILES DRIVEN.**

Subdivision 1. **Definitions.** "Per capita vehicle miles driven" means nonfreight motor vehicle miles traveled per person per calendar year.

Subd. 2. **Reduction goal.** In order to help achieve an overall reduction in greenhouse gas emissions in Minnesota, the commissioner of transportation shall implement, and facilitate the implementation by other public and private entities, policies that will have the goal of achieving by 2025 at least a 15 percent reduction from 2005 levels of per capita vehicle miles driven. The implemented policies shall not mandate that persons within the meaning of section 645.44 reduce their vehicle miles traveled.

Sec. 31. Minnesota Statutes 2008, section 174.02, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency; legislative report, recommendations.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) minimize the degradation of air and water quality, and the climate, including reduction in greenhouse gas emissions;

(4) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(5) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(6) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(7) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(8) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 32. Minnesota Statutes 2008, section 174.03, subdivision 1b, is amended to read:

Subd. 1b. **Statewide freight and passenger rail plan.** (a) The commissioner shall develop a comprehensive statewide freight and passenger rail plan to be included and revised as a part of the statewide transportation plan. The plan must include a study on the feasibility of establishing commuter transit service in: the Little Crow Transit Way, along or near marked Trunk Highway 12 between Willmar and downtown Minneapolis, and the Sioux Trail Transit Way, along or near marked Trunk Highway 13 between Shakopee and St. Paul.

(b) Before the initial version of the plan is adopted, the commissioner shall provide a copy for review and comment to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation policy and finance. Notwithstanding paragraph (a), the commissioner may adopt the next revision of the statewide transportation plan, scheduled to be completed in calendar year 2009, prior to completion of the initial version of the comprehensive statewide freight and passenger rail plan.

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

Sec. 33. **[174.285] MINNESOTA COUNCIL ON TRANSPORTATION ACCESS.**

Subdivision 1. **Council established.** A Minnesota Council on Transportation Access is established to study, evaluate, oversee, and make recommendations to improve the coordination, availability, accessibility, efficiency, cost-effectiveness, and safety of transportation services provided to the transit public. "Transit public" means those persons who utilize public transit and those who, because of mental or physical disability, income status, or age are unable to transport themselves and are dependent upon others for transportation services.

Subd. 2. **Duties of council.** In order to accomplish the purposes in subdivision 1, the council shall adopt a biennial work plan that must incorporate the following activities:

(1) compile information on existing transportation alternatives for the transit public, and serve as a clearinghouse for information on services, funding sources, innovations, and coordination efforts;

(2) identify best practices and strategies that have been successful in Minnesota and in other states for coordination of local, regional, state, and federal funding and services;

(3) establish statewide objectives for providing public transportation services for the transit public;

(4) identify barriers prohibiting coordination and accessibility of public transportation services and aggressively pursue the elimination of those barriers;

(5) develop and implement policies and procedures for coordinating local, regional, state, and federal funding and services for the transit public;

(6) identify stakeholders in providing services for the transit public, and seek input from them concerning barriers and appropriate strategies;

(7) establish guidelines for developing transportation coordination plans throughout the state;

(8) encourage all state agencies participating in the council to purchase trips within the coordinated system;

(9) facilitate the creation and operation of transportation brokerages to match riders to

the appropriate service, promote shared dispatching, compile and disseminate information on transportation options, and promote regional communication;

(10) encourage volunteer driver programs and recommend legislation to address liability and insurance issues;

(11) establish minimum performance standards for delivery of services;

(12) identify methods to eliminate fraud and abuse in special transportation services;

(13) develop a standard method for addressing liability insurance requirements for transportation services purchased, provided, or coordinated;

(14) design and develop a contracting template for providing coordinated transportation services;

(15) develop an interagency uniform contracting and billing and accounting system for providing coordinated transportation services;

(16) encourage the design and development of training programs for coordinated transportation services;

(17) encourage the use of public school transportation vehicles for the transit public;

(18) develop an allocation methodology that equitably distributes transportation funds to compensate units of government and all entities that provide coordinated transportation services;

(19) identify policies and necessary legislation to facilitate vehicle sharing; and

(20) advocate aggressively for eliminating barriers to coordination, implementing coordination strategies, enacting necessary legislation, and appropriating resources to achieve the council's objectives.

**Subd. 3. Membership.** (a) The council is comprised of the following 17 members:

(1) two members of the senate, one from the majority party appointed by the majority leader, and one from the minority party, appointed by the minority leader;

(2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(3) one representative from the Office of the Governor;

(4) one representative from the Council on Disability;

(5) one representative from the Minnesota Public Transit Association;

(6) the commissioner of transportation or a designee;

(7) the commissioner of human services or a designee;

(8) the commissioner of health or a designee;

(9) the chair of the Metropolitan Council or a designee;

(10) the commissioner of education or a designee;

- (11) the commissioner of veterans affairs or a designee;
- (12) one representative from the Board on Aging;
- (13) the commissioner of employment and economic development or a designee;
- (14) the commissioner of commerce or a designee; and
- (15) the commissioner of finance or a designee.

(b) All appointments required by paragraph (a) must be completed by August 1, 2009.

(c) The commissioner of transportation or a designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council. The members shall elect a chairperson from their membership at the first meeting.

(d) The Department of Transportation and the Department of Human Services shall provide necessary staff support for the council.

Subd. 4. **Report.** By January 15 of each year, beginning in 2011, the council shall report its findings, recommendations, and activities to the governor's office and to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation, health, and human services, and to the legislature as provided under section 3.195.

Subd. 5. **Compensation.** Members of the council shall receive compensation and reimbursement of expenses as provided in section 15.059, subdivision 3.

Subd. 6. **Expiration.** This section expires June 30, 2013.

Sec. 34. **[174.638] DESIGN-BUILD CONTRACTING.**

The commissioner may utilize the design-build method of contracting, under sections 161.3410 to 161.3428, in connection with the planning, design, development, and construction of a high-speed passenger rail line connecting Chicago, La Crescent, Winona, Red Wing, and the Union Depot Concourse Multimodal Transit Hub, located in downtown St. Paul in the area south of Kellogg Boulevard and east of Jackson Street and the potential future connection to Minneapolis.

Sec. 35. Minnesota Statutes 2008, section 174.86, subdivision 5, is amended to read:

**Subd. 5. Commuter Rail Corridor Coordinating Committee.** (a) A Commuter Rail Corridor Coordinating Committee ~~shall be~~ is established to advise the commissioner on issues relating to the alternatives analysis, environmental review, advanced corridor planning, preliminary engineering, final design, implementation method, construction of commuter rail, public involvement, land use, service, and safety. The Commuter Rail Corridor Coordinating Committee shall consist of:

(1) one member representing each significant funding partner in whose jurisdiction the line or lines are located;

(2) one member appointed by each county in which the corridors are located;

(3) one member appointed by each city in which advanced corridor plans indicate that a station may be located;

(4) two members appointed by the commissioner, one of whom shall be designated by the

commissioner as the chair of the committee;

(5) one member appointed by each metropolitan planning organization through which the commuter rail line may pass; ~~and~~

(6) one member appointed by the president of the University of Minnesota, if a designated corridor provides direct service to the university; and

(7) two members of labor organizations operating in, and with authority for, trains or rail yards or stations junctioning with freight and commuter rail lines on corridors, with one member appointed by the speaker of the house and the other member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration.

(b) A joint powers board existing on April 1, 1999, consisting of local governments along a commuter rail corridor, shall perform the functions set forth in paragraph (a) in place of the committee.

(c) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 36. Minnesota Statutes 2008, section 219.01, is amended to read:

**219.01 TRACK SAFETY STANDARDS; SAFETY TECHNOLOGY GRANTS.**

(a) The track safety standards of the United States Department of Transportation and Federal Railroad Administration apply to railroad trackage and are the standards for the determination of unsafe trackage within the state.

(b) The commissioner of transportation shall apply to the Federal Railroad Administration under Public Law 110-432, the Railroad Safety Enhancement Act of 2008 (the act), for (1) railroad safety technology grant funding available under section 105 of the act and (2) development and installation of rail safety technology, including provision for switch position indicator signals in nonsignalized main track territory, under section 406 of the act. The commissioner shall respond and make application to the Federal Railroad Administration notice of funds availability under the Rail Safety Assurance Act in a timely manner and before the date of the program deadline to assure full consideration of the application. The commissioner shall (i) prioritize grant requests for the installation of switch indicator signals on all segments of nonsignalized track where posted speeds are in excess of 20 miles per hour and (ii) apply for grant funding in each year after 2009 until all nonsignalized track territory in the state has switch indicator signals installed and in operation.

(c) Prior to applying for funds under paragraph (b), the commissioner shall solicit grant requests from all eligible railroads. The commissioner shall submit written notice to the chairs of the legislative committees with jurisdiction over transportation policy and finance of an acceptance by a class one or class two railroad of federal grant program funding for switch point indicator monitor systems.

(d) Participating railroads shall provide the 20 percent nonfederal match. Railroads shall provide all technical documentation requested by the commissioner and required by the Federal Railroad Administration for the applications under paragraph (b). Railroads are responsible for developing, acquiring, and installing all rail safety technology obtained under this section in accordance with requirements established by the Federal Railroad Administration.

Sec. 37. Minnesota Statutes 2008, section 221.012, is amended by adding a subdivision to read:

Subd. 27a. **Motor carrier of railroad employees.** "Motor carrier of railroad employees" means a motor carrier engaged in the for-hire transportation of railroad employees of a class I or II common carrier, as defined in Code of Federal Regulations, title 49, part 1201, general instruction 1-1, under the terms of a contractual agreement with a common carrier, as defined in section 218.011, subdivision 10.

Sec. 38. Minnesota Statutes 2008, section 221.012, subdivision 38, is amended to read:

**Subd. 38. Small vehicle passenger service.** (a) "Small vehicle passenger service" means a service provided by a person engaged in the for-hire transportation of passengers in a vehicle designed to transport seven or fewer persons, including the driver.

(b) In the metropolitan area as defined in section 473.121, subdivision 2, "small vehicle passenger service" also includes for-hire transportation of persons who are certified by the Metropolitan Council to use special transportation service provided under section 473.386, in a vehicle designed to transport not more than 15 persons including the driver, that is equipped with a wheelchair lift and at least three wheelchair securement positions.

(c) "Small vehicle passenger service" does not include a motor carrier of railroad employees.

**Sec. 39. [221.0255] MOTOR CARRIER OF RAILROAD EMPLOYEES.**

(a) A motor carrier of railroad employees must meet the requirements specified in this section, is subject to section 221.291, and is otherwise exempt from the provisions of this chapter.

(b) A vehicle operator for a motor carrier of railroad employees who transports passengers must:

- (1) have a valid driver's license under chapter 171; and
- (2) submit to a physical examination.

(c) The carrier must implement a policy that provides for annual training and certification of the operator in:

- (1) safe operation of the vehicle transporting railroad employees;
- (2) knowing and understanding relevant laws, rules of the road, and safety policies;
- (3) handling emergency situations;
- (4) proper use of seat belts;
- (5) performance of pretrip and post-trip vehicle inspections, and inspection record keeping; and
- (6) proper maintenance of required records.

(d) The carrier must:

- (1) perform a background check or background investigation of the operator;
- (2) annually verify the operator's driver's license;
- (3) document meeting the requirements in this subdivision, and maintain the file at the carrier's

business location;

(4) maintain liability insurance in a minimum amount of \$5,000,000 regardless of the seating capacity of the vehicle; and

(5) maintain uninsured and underinsured coverage in a minimum amount of \$1,000,000.

If a party contracts with the motor carrier on behalf of the railroad to transport the railroad employees, then the insurance requirements may be satisfied by either that party or the motor carrier, so long as the motor carrier is a named insured or additional insured under any policy.

(e) A person who sustains a conviction of violating section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under sections 169A.50 to 169A.53 of the implied consent law, or who is convicted of or has their driver's license revoked under a similar statute or ordinance of another state, may not operate a vehicle under this subdivision for five years from the date of conviction. A person who sustains a conviction of a moving offense in violation of chapter 169 within three years of the first of three other moving offenses may not operate a vehicle under this subdivision for one year from the date of the last conviction. A person who has ever been convicted of a disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not operate a vehicle under this subdivision.

(f) An operator who sustains a conviction as described in paragraph (e) while employed by the carrier shall report the conviction to the carrier within ten days of the date of the conviction.

(g) A carrier must implement a mandatory alcohol and controlled substance testing program as provided under sections 181.950 to 181.957 that consists of preemployment testing, post-accident testing, random testing, reasonable suspicion testing, return-to-duty testing, and follow-up testing.

(h) A motor carrier of railroad employees shall not allow or require a driver to drive or remain on duty for more than: ten hours after eight consecutive hours off duty; 15 hours of combined on-duty time and drive time since last obtaining eight consecutive hours of off-duty time; or 70 hours of on-duty and drive time in any period of eight consecutive days. After 24 hours off duty, a driver begins a new seven consecutive day period and on-duty time is reset to zero.

(i) An operator who encounters an emergency and cannot, because of that emergency, safely complete a transportation assignment within the ten-hour maximum driving time permitted under paragraph (h), may drive for not more than two additional hours in order to complete that transportation assignment or to reach a place offering safety for the occupants of the vehicle and security for the transport motor vehicle, if the transportation assignment reasonably could have been completed within the ten-hour period absent the emergency.

(j) A carrier shall maintain and retain for a period of six months accurate time records that show the time the driver reports for duty each day; the total number of hours of on-duty time for each driver for each day; the time the driver is released from duty each day; and the total number of hours driven each day.

(k) For purposes of this subdivision, the following terms have the meanings given:

(1) "conviction" has the meaning given in section 609.02; and

(2) "on-duty time" means all time at a terminal, facility, or other property of a contract carrier

or on any public property waiting to be dispatched. "On-duty time" includes time spent inspecting, servicing, or conditioning the vehicle.

**EFFECTIVE DATE.** Paragraph (d), clause (5), is effective July 1, 2010.

Sec. 40. Minnesota Statutes 2008, section 239.77, is amended by adding a subdivision to read:

Subd. 3a. **Executive order.** (a) The governor may, by executive order, lower the minimum content requirement for fuel used in metro transit buses during any period of cold weather beginning and ending during the months of November to March. The minimum content requirement may not be set at a level lower than two percent.

(b) An executive order issued under paragraph (a), is effective the day following the filing of a certified copy in the Office of the Secretary of State, and remains in effect until rescinded by order of the governor.

Sec. 41. Minnesota Statutes 2008, section 514.18, subdivision 1a, is amended to read:

Subd. 1a. **Towed motor vehicles.** A person who tows and stores a motor vehicle at the request of a law enforcement officer shall have a lien on the motor vehicle for the value of the storage and towing and the right to retain possession of the motor vehicle until the lien is lawfully discharged. This section does not apply to tows ~~authorized in section 169.041, subdivision 4, clause (1)~~ of vehicles parked in violation of snow emergency regulations.

Sec. 42. **ENVIRONMENTAL IMPACT STATEMENT COMPLETION.**

By December 31, 2009, the commissioner of transportation shall submit the final environmental impact statement to the Federal Highway Administration in the United States Department of Transportation for any project:

(1) that is a trunk highway construction or reconstruction project on a high-priority or medium-priority interregional corridor; and

(2) for which an environmental impact statement was started before August 1, 2006.

The commissioner shall perform this duty within existing appropriations that are allocated to District 7.

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

Sec. 43. **STUDY OF MANDATORY 24-HOUR VEHICLE LIGHTING.**

(a) The commissioner of public safety, in cooperation with the commissioner of transportation, shall study the mandatory 24-hour use of vehicle lighting by vehicles on public highways. The study must examine the experience of jurisdictions in this country, Canada, and the European Union, that require 24-hour display of vehicle lighting, including but not limited to:

(1) environmental consequences;

(2) crash prevention;

(3) motorcycle, bicycle, and pedestrian safety;

(4) cost to drivers; and

(5) application to motorcycles.

(b) By January 15, 2011, the commissioners of transportation and public safety shall report their findings and recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy. The report must be made electronically and available in print only upon request.

(c) The commissioners of public safety and transportation shall study and report under this section within current appropriations.

**Sec. 44. DEADLINE FOR APPOINTMENTS TO COMMUTER RAIL CORRIDOR COORDINATING COMMITTEE.**

The appointing authorities for the new members provided in Minnesota Statutes, section 174.86, subdivision 5, shall complete their appointments no later than September 1, 2009.

**Sec. 45. ECONOMIC RECOVERY FUNDS APPLICATION.**

The commissioner of transportation shall work in cooperation with the state of Wisconsin to prepare and submit timely application under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for grant funding relating to the planning, design, development, and construction of a high-speed passenger rail line connecting Chicago, La Crescent, Winona, Red Wing, and the Union Depot Concourse Multimodal Transit Hub, located in downtown St. Paul in the area south of Kellogg Boulevard and east of Jackson Street and the potential future connection to Minneapolis.

**Sec. 46. AGREEMENT FOR ENHANCED LICENSE AND IDENTIFICATION CARD.**

The commissioner of public safety shall enter into an agreement with the secretary of the United States Department of Homeland Security to develop an enhanced Minnesota driver's license and an enhanced Minnesota identification card to be designated by the secretary as acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports of entry upon implementation of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (United States Code, title 8, section 1185 Note).

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

**Sec. 47. RULEMAKING.**

The commissioner of public safety shall amend Minnesota Rules, parts 7410.0100, 7410.0400, and 7410.0410, so that an applicant for an enhanced driver's license or enhanced identification card must prove United States citizenship and otherwise comply with applicable requirements of Minnesota Statutes, section 171.06, subdivision 3. The amendments must be adopted pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

**Sec. 48. REPEALER.**

(a) Minnesota Statutes 2008, sections 13.721, subdivision 4; and 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 18, are repealed.

(b) Minnesota Statutes 2008, section 169.041, subdivisions 3 and 4, are repealed.

**Sec. 49. EFFECTIVE DATE.**

Sections 13 to 23 are effective June 1, 2009, for every enhanced driver's license and enhanced identification card that is issued on or after January 1, 2010."

Delete the title and insert:

"A bill for an act relating to transportation; including pedestrian, bicycle components in bridge improvement program; removing sunset of corporate deputy registrars; authorizing deputy registrars to collect surcharges on credit card transactions; amending eligibility for impounded vehicle contents retrieval; removing four-hour towing waiting period; imposing petty misdemeanor for blocking intersection; allowing certain GPS and safety-tracking devices on windshields; providing for enhanced driver's license; modifying driving after suspension provisions; expanding DWI ignition interlock device pilot program; modifying transportation department goals; requiring feasibility study of transit service in Little Crow and Sioux Trail transit ways; establishing council on transportation access; identifying commissioner of transportation duties for passenger rail; adding members to commuter rail corridor coordinating committee; requiring commissioner to apply for railroad safety technology grants; regulating motor carriers of railroad employees; authorizing governor to adjust fuel content requirement for metro transit buses in cold weather; requiring commissioner of transportation to submit certain environmental impact statements; prohibiting imposition of seasonal load restrictions; requiring feasibility study of commuter rail in Sioux Trail Line; directing commissioner of transportation to study mandatory 24-hour vehicle lighting; requiring report; authorizing rulemaking; amending Minnesota Statutes 2008, sections 161.14, by adding a subdivision; 165.14, subdivisions 4, 5; 168.33, subdivisions 2, 7; 168B.06, subdivision 1; 168B.07, subdivision 3; 169.041, subdivision 5; 169.13, by adding a subdivision; 169.15; 169.71, subdivision 1; 169A.275, subdivision 7; 171.01, by adding subdivisions; 171.04, by adding a subdivision; 171.06, subdivisions 1, 2, 3, 6; 171.07, subdivision 3, by adding subdivisions; 171.071, by adding a subdivision; 171.18, subdivision 1; 171.24, by adding a subdivision; 171.306, subdivisions 1, 3; 174.01, subdivisions 1, 2; 174.02, subdivision 1a; 174.03, subdivision 1b; 174.86, subdivision 5; 219.01; 221.012, subdivision 38, by adding a subdivision; 239.77, by adding a subdivision; 514.18, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 174; 221; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 169.041, subdivisions 3, 4; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18."

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

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

**H.F. No. 111:** A bill for an act relating to the State Board of Investment; requiring divestment from certain investments relating to Iran; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 11A.

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

Page 4, line 4, delete "(a) This section does not require the State Board of"

Page 4, delete lines 5 to 19

Page 4, line 20, delete "(b)"

Page 5, line 2, delete everything after "report"

Page 5, delete line 3 and insert "to the chairs and ranking minority members of the legislative committees and divisions"

Page 5, delete line 27

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

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

**S.F. No. 1153:** A bill for an act relating to state employees; requiring that health insurance benefits be made available to domestic partners of state employees if they are also made available to spouses; amending Minnesota Statutes 2008, sections 43A.02, by adding a subdivision; 43A.24, subdivision 1.

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

Page 1, line 10, after "adult" insert "of the same sex"

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

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

**S.F. No. 1154:** A bill for an act relating to occupations and professions; changing licensing provisions for social work; reducing certain fees; amending Minnesota Statutes 2008, sections 148D.010, subdivisions 9, 15, by adding subdivisions; 148D.025, subdivisions 2, 3; 148D.061, subdivisions 6, 8; 148D.062, subdivision 2; 148D.063, subdivision 2; 148D.125, subdivisions 1, 3; 148D.180, subdivisions 1, 2, 3, 5; 148E.010, subdivisions 11, 17, by adding subdivisions; 148E.025, subdivisions 2, 3; 148E.055, subdivision 5; 148E.100, subdivisions 3, 4, 5, 6, 7, by adding a subdivision; 148E.105, subdivisions 1, 3, 5, 7, by adding a subdivision; 148E.106, subdivisions 1, 2, 3, 4, 5, 8, 9, by adding a subdivision; 148E.110, subdivisions 1, 2, by adding subdivisions; 148E.115, subdivision 1, by adding a subdivision; 148E.120; 148E.125, subdivisions 1, 3; 148E.130, subdivisions 2, 5, by adding a subdivision; 148E.165, subdivision 1; 148E.180, subdivisions 1, 2, 3, 5; repealing Minnesota Statutes 2008, sections 148D.062, subdivision 5; 148D.125, subdivision 2; 148D.180, subdivision 8; 148E.106, subdivision 6; 148E.125, subdivision 2.

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

Page 29, delete article 3

Amend the title as follows:

Page 1, line 3, delete "reducing certain fees;"

Amend the title numbers accordingly

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

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

**re-referred**

**S.F. No. 2:** A bill for an act relating to state government; specifying the development of budget recommendations and requiring state agencies to provide information; requiring disclosure of status of fiscal note requests; requiring a report on Minnesota milestones performance measures; modifying state budget requirements; requiring a forecast of cash flow for the general fund; specifying format for detailed budget estimates of expenditures; imposing deadline for notice of deficiency requests; requiring a searchable database of state expenditures; requiring a map of money used to support children; reducing the number of deputy commissioners and eliminating assistant commissioner positions in the unclassified service; providing additional whistleblower protection to state employees; requiring a budget working group; creating pilot program for driver's license reinstatement diversion for individuals charged with driving without valid license; eliminating obsolete requirements; appropriating money; amending Minnesota Statutes 2008, sections 3.885, by adding a subdivision; 3.98, subdivision 4; 3.987, subdivision 1; 4A.01; 4A.02; 15.06, subdivision 8; 16A.055, subdivision 1; 16A.10, subdivisions 1, 2; 16A.11, subdivision 3, by adding a subdivision; 16B.03; 43A.08, subdivision 1; 45.013; 84.01, subdivision 3; 116.03, subdivision 1; 116J.01, subdivision 5; 116J.035, subdivision 4; 174.02, subdivision 2; 181.932, subdivision 1; 241.01, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 4A; 16A; 43A; repealing Minnesota Statutes 2008, sections 4A.06; 16A.152, subdivision 1b; 16C.046; 43A.08, subdivision 1b.

Reports the same back with the recommendation that the bill do pass. Report adopted.

**Senator Pogemiller from the Committee on Rules and Administration, to which was re-referred**

**S.F. No. 182:** A bill for an act relating to elections; establishing districting principles for legislative and congressional plans; providing for appointment of a commission to recommend the boundaries of legislative and congressional districts; appropriating money; amending Minnesota Statutes 2008, section 2.021; proposing coding for new law in Minnesota Statutes, chapter 2; repealing Minnesota Statutes 2008, section 2.031.

Reports the same back with the recommendation that the bill do pass. Report adopted.

**Senator Pogemiller from the Committee on Rules and Administration, to which was re-referred**

**S.F. No. 1125:** A bill for an act relating to counties; providing for appointment and consolidation of certain county offices, subject to notice, hearing, reverse referendum; amending Minnesota Statutes 2008, sections 375A.10, subdivision 5; 375A.12, subdivision 2, by adding a subdivision; 382.01.

Reports the same back with the recommendation that the bill do pass. Report adopted.

**Senator Pogemiller from the Committee on Rules and Administration, to which was re-referred**

**S.F. No. 1459:** A bill for an act relating to state government; requiring municipalities to utilize state cooperative purchasing; amending Minnesota Statutes 2008, section 471.345, subdivision 15.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

**H.F. No. 988** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
988	738				

and that the above Senate File be indefinitely postponed.

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

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

**H.F. No. 1056** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1056	638				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1056 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1056, the first engrossment; and insert the language after the enacting clause of S.F. No. 638; further, delete the title of H.F. No. 1056, the first engrossment; and insert the title of S.F. No. 638.

And when so amended H.F. No. 1056 will be identical to S.F. No. 638, and further recommends that H.F. No. 1056 be given its second reading and substituted for S.F. No. 638, and that the Senate File be indefinitely postponed.

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

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

**H.F. No. 1476** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1476	1313				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1476 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1476, the second engrossment; and insert the language after the enacting clause of S.F. No. 1313, the first engrossment; further, delete the title of H.F. No. 1476, the second engrossment; and insert the title of S.F. No. 1313, the first engrossment.

And when so amended H.F. No. 1476 will be identical to S.F. No. 1313, and further recommends that H.F. No. 1476 be given its second reading and substituted for S.F. No. 1313, and that the Senate File be indefinitely postponed.

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

**Senator Chaudhary from the Committee on Environment and Natural Resources, to which were referred the following appointments:**

LESSARD OUTDOOR HERITAGE COUNCIL  
James Cox  
Wayne Enger  
Scott Rall  
Robert Schroeder

Reports the same back with the recommendation that the appointments be confirmed.

Senator Pogemiller moved that the foregoing committee report be laid on the table. The motion prevailed.

### **SECOND READING OF SENATE BILLS**

S.F. Nos. 1126, 1155, 1036, 798, 1005, 1284, 1153, 1154, 2, 182, 1125 and 1459 were read the second time.

### **SECOND READING OF HOUSE BILLS**

H.F. Nos. 111, 988, 1056 and 1476 were read the second time.

### **INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time.

**Senator Olseen introduced—**

**S.F. No. 2124:** A bill for an act relating to capital improvements; appropriating money for sewer systems and wastewater treatment facilities improvements in the city of Lindstrom; authorizing the issuance of state bonds.

Referred to the Committee on Finance.

**Senators Marty and Sieben introduced—**

**S.F. No. 2125:** A bill for an act relating to elections; authorizing a pilot program for conducting certain elections in certain cities and school districts entirely by mail; amending Minnesota Statutes 2008, section 204B.45, by adding a subdivision.

Referred to the Committee on State and Local Government Operations and Oversight.

**Senators Murphy, Metzen, Scheid, Senjem and Moua introduced—**

**S.F. No. 2126:** A bill for an act relating to construction codes and licensing; creating exemption from State Building Code preemption in certain cases; establishing an advisory committee; requiring a report.

Referred to the Committee on Business, Industry and Jobs.

**Senators Murphy, Lynch, Erickson Ropes and Sparks introduced—**

**S.F. No. 2127:** A bill for an act relating to disaster assistance; reimbursing city of St. Charles for lost revenues and adjusting pupil unit aid in response to the North Star Foods fire; appropriating money.

Referred to the Committee on Finance.

**MOTIONS AND RESOLUTIONS**

Senator Cohen moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Tomassoni be added as chief author to S.F. No. 2060. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

**CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on the Calendar. The Sergeant at Arms was instructed to bring in the absent members.

**CALENDAR**

**S.F. No. 1447:** A bill for an act relating to human services; making changes to licensing

provisions, including data practices, disqualifications, and background study requirements; providing alternate supervision technology for adult foster care licensing; amending Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20; 147C.25; 147C.30; 147C.35; 147C.40; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07, subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16, subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045, subdivisions 3, 3b; 299C.61, subdivision 6; 299C.62, subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Pappas	Skoe
Berglin	Fobbe	Langseth	Pariseau	Skogen
Betzold	Foley	Latz	Pogemiller	Sparks
Bonoff	Frederickson	Limmer	Prettner Solon	Stumpf
Carlson	Gerlach	Lourey	Rest	Tomassoni
Clark	Gimse	Lynch	Robling	Torres Ray
Cohen	Hann	Marty	Rosen	Vickerman
Dahle	Higgins	Metzen	Rummel	Wiger
Day	Ingebrigtsen	Michel	Saltzman	
Dibble	Jungbauer	Moua	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

Those who voted in the negative were:

Vandevveer

So the bill passed and its title was agreed to.

**S.F. No. 1302:** A bill for an act relating to real property; modifying provisions governing eviction of tenants in property subject to mortgage foreclosure or termination of contract for deed; specifying requirements for vendors under contracts for deed; modifying mortgage foreclosure notices and information requirements; modifying provisions for sheriff's sale postponement and perpetuating evidence of sale; amending Minnesota Statutes 2008, sections 504B.285, subdivision 1; 507.235, by adding a subdivision; 580.021, subdivisions 1, 2; 580.025; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 580.07; 580.15.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Anderson	Bakk	Berglin	Betzold	Bonoff
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Carlson	Frederickson	Limmer	Pogemiller	Skogen
Clark	Gerlach	Lourey	Prettner Solon	Sparks
Cohen	Gimse	Lynch	Rest	Stumpf
Dahle	Hann	Marty	Robling	Tomassoni
Day	Higgins	Metzen	Rosen	Torres Ray
Dibble	Jungbauer	Michel	Rummel	Vandever
Dille	Kelash	Moua	Saltzman	Vickerman
Doll	Koch	Olseen	Saxhaug	Wiger
Erickson Ropes	Koering	Olson, G.	Scheid	
Fischbach	Kubly	Olson, M.	Senjem	
Fobbe	Langseth	Pappas	Sheran	
Foley	Latz	Pariseau	Skoe	

So the bill passed and its title was agreed to.

**S.F. No. 492:** A bill for an act relating to transportation; regulating use and operation of mini trucks on public roadways; amending Minnesota Statutes 2008, sections 169.011, by adding a subdivision; 169.045.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Pappas	Skoe
Berglin	Fobbe	Langseth	Pariseau	Skogen
Betzold	Foley	Latz	Pogemiller	Sparks
Bonoff	Frederickson	Limmer	Prettner Solon	Stumpf
Carlson	Gerlach	Lourey	Rest	Tomassoni
Clark	Gimse	Lynch	Robling	Torres Ray
Cohen	Hann	Marty	Rosen	Vandever
Dahle	Higgins	Metzen	Rummel	Vickerman
Day	Ingebrigtsen	Michel	Saltzman	Wiger
Dibble	Jungbauer	Moua	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**S.F. No. 431:** A bill for an act relating to mental illness; prohibiting participation in clinical drug trials; amending Minnesota Statutes 2008, section 253B.095, subdivision 1.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Day	Gerlach	Kubly	Moua
Bakk	Dibble	Gimse	Langseth	Olseen
Berglin	Dille	Hann	Latz	Olson, G.
Betzold	Doll	Higgins	Limmer	Olson, M.
Bonoff	Erickson Ropes	Ingebrigtsen	Lourey	Pappas
Carlson	Fischbach	Jungbauer	Lynch	Pariseau
Clark	Fobbe	Kelash	Marty	Pogemiller
Cohen	Foley	Koch	Metzen	Prettner Solon
Dahle	Frederickson	Koering	Michel	Rest

Robling	Saxhaug	Skoe	Tomassoni	Wiger
Rosen	Scheid	Skogen	Torres Ray	
Rummel	Senjem	Sparks	Vandever	
Saltzman	Sheran	Stumpf	Vickerman	

So the bill passed and its title was agreed to.

**S.F. No. 1887:** A bill for an act relating to civil law; releasing information to health care agents; providing access to health care agents; amending Minnesota Statutes 2008, sections 13.384, subdivisions 2, 3; 144.225, subdivision 7; 144.419, subdivision 5; 169.09, subdivision 13; 246.70; 253B.10, subdivision 3; 253B.14; 253B.16, subdivision 2; 256B.48, subdivision 8.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, G.	Senjem
Bakk	Fischbach	Kubly	Olson, M.	Sheran
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Clark	Gimse	Lynch	Rest	Tomassoni
Cohen	Hann	Marty	Robling	Torres Ray
Dahle	Higgins	Metzen	Rosen	Vandever
Day	Ingebrigtsen	Michel	Rummel	Vickerman
Dibble	Jungbauer	Moua	Saltzman	Wiger
Dille	Kelash	Murphy	Saxhaug	
Doll	Koch	Olseen	Scheid	

So the bill passed and its title was agreed to.

**S.F. No. 97:** A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 2008, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 35 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Koering	Murphy	Scheid
Bakk	Dibble	Latz	Pappas	Sheran
Berglin	Doll	Lourey	Pogemiller	Sieben
Betzold	Erickson Ropes	Marty	Prettner Solon	Skoe
Carlson	Foley	Metzen	Rest	Tomassoni
Clark	Higgins	Michel	Rummel	Torres Ray
Cohen	Kelash	Moua	Saltzman	Wiger

Those who voted in the negative were:

Bonoff	Dille	Fobbe	Gerlach	Hann
Day	Fischbach	Frederickson	Gimse	Ingebrigtsen

Jungbauer	Limmer	Olson, M.	Saxhaug	Stumpf
Koch	Lynch	Pariseau	Senjem	Vandever
Kubly	Olseen	Robling	Skogen	Vickerman
Langseth	Olson, G.	Rosen	Sparks	

So the bill passed and its title was agreed to.

**S.F. No. 538:** A bill for an act relating to public safety; addressing the consideration of a job applicant's criminal history during the public employment hiring process; proposing coding for new law in Minnesota Statutes, chapter 364.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 49 and nays 13, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Latz	Pappas	Senjem
Berglin	Erickson Ropes	Lourey	Pariseau	Sheran
Betzold	Fobbe	Lynch	Pogemiller	Sieben
Bonoff	Foley	Marty	Prettner Solon	Skogen
Carlson	Frederickson	Metzen	Rest	Sparks
Clark	Gimse	Moua	Robling	Stumpf
Cohen	Higgins	Murphy	Rosen	Tomassoni
Dahle	Kelash	Olseen	Rummel	Torres Ray
Dibble	Kubly	Olson, G.	Saxhaug	Wiger
Dille	Langseth	Olson, M.	Scheid	

Those who voted in the negative were:

Day	Hann	Koch	Michel	Vickerman
Fischbach	Ingebrigtsen	Koering	Saltzman	
Gerlach	Jungbauer	Limmer	Vandever	

So the bill passed and its title was agreed to.

**S.F. No. 574:** A bill for an act relating to utilities; authorizing Public Utilities Commission to order refunds of unlawful utility rate revenues; amending Minnesota Statutes 2008, section 216B.23, by adding a subdivision.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kelash	Moua	Rummel
Bakk	Erickson Ropes	Koch	Murphy	Saltzman
Berglin	Fischbach	Koering	Olseen	Saxhaug
Betzold	Fobbe	Kubly	Olson, G.	Scheid
Bonoff	Foley	Langseth	Olson, M.	Senjem
Carlson	Frederickson	Latz	Pappas	Sheran
Clark	Gerlach	Limmer	Pariseau	Sieben
Cohen	Gimse	Lourey	Pogemiller	Skoe
Dahle	Hann	Lynch	Prettner Solon	Skogen
Day	Higgins	Marty	Rest	Sparks
Dibble	Ingebrigtsen	Metzen	Robling	Stumpf
Dille	Jungbauer	Michel	Rosen	Tomassoni

Torres Ray

Vandever

Vickerman

Wiger

So the bill passed and its title was agreed to.

**S.F. No. 1494:** A bill for an act relating to examinations; prohibiting certain practices in preparation for a licensing or certifying examination; establishing civil liability and remedies; proposing coding for new law in Minnesota Statutes, chapter 604.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Kubly	Olson, M.	Sheran
Bakk	Fischbach	Langseth	Pappas	Sieben
Berglin	Fobbe	Latz	Pariseau	Skoe
Betzold	Foley	Limmer	Pogemiller	Skogen
Bonoff	Frederickson	Lourey	Prettner Solon	Sparks
Carlson	Gerlach	Lynch	Rest	Stumpf
Clark	Gimse	Marty	Robling	Tomassoni
Cohen	Hann	Metzen	Rosen	Torres Ray
Dahle	Higgins	Michel	Rummel	Vandever
Day	Ingebrigtsen	Moua	Saltzman	Vickerman
Dibble	Kelash	Murphy	Saxhaug	Wiger
Dille	Koch	Olseen	Scheid	
Doll	Koering	Olson, G.	Senjem	

Those who voted in the negative were:

Jungbauer

So the bill passed and its title was agreed to.

**S.F. No. 1476:** A bill for an act relating to labor and employment; modifying workers' compensation provisions; amending Minnesota Statutes 2008, sections 176.101, subdivision 2a; 176.102, subdivisions 3, 3a, by adding a subdivision; 176.103, subdivision 3; 176.135, subdivisions 6, 7, by adding a subdivision; 176.155, subdivision 1; 176.179; 176.181, subdivision 8; 176.183, subdivision 2; 176.186; 176.231, subdivision 1; 176.341, subdivision 1; 176.351, subdivision 2a; repealing Minnesota Statutes 2008, section 176.1021.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Hann	Limmer	Olson, M.
Bakk	Dille	Higgins	Lourey	Pappas
Berglin	Doll	Ingebrigtsen	Lynch	Pariseau
Betzold	Erickson Ropes	Jungbauer	Marty	Pogemiller
Bonoff	Fischbach	Kelash	Metzen	Prettner Solon
Carlson	Fobbe	Koch	Michel	Rest
Clark	Foley	Koering	Moua	Robling
Cohen	Frederickson	Kubly	Murphy	Rosen
Dahle	Gerlach	Langseth	Olseen	Rummel
Day	Gimse	Latz	Olson, G.	Saltzman

Saxhaug  
Scheid  
Senjem

Sheran  
Sieben  
Skoe

Skogen  
Sparks  
Stumpf

Tomassoni  
Torres Ray  
Vickerman

Wiger

Those who voted in the negative were:

Vandev eer

So the bill passed and its title was agreed to.

**S.F. No. 863:** A bill for an act relating to data practices; classifying government data; modifying provisions governing temporary classifications and personnel data; amending business screening services provisions; amending Minnesota Statutes 2008, sections 13.05, subdivision 4, by adding a subdivision; 13.06, subdivisions 1, 3, 4, 5, 7, by adding subdivisions; 13.43, subdivisions 1, 2, by adding subdivisions; 13.64; 13.643, by adding a subdivision; 13.7931, by adding a subdivision; 13.87, by adding a subdivision; 13.871, by adding a subdivision; 13D.05, subdivision 3; 16B.97, by adding a subdivision; 125A.21, subdivision 5; 270B.14, subdivision 16; 299C.156, subdivision 5; 332.70, subdivisions 1, 2, 3, 4; proposing coding for new law in Minnesota Statutes, chapters 13; 84; repealing Minnesota Statutes 2008, section 13.06, subdivision 2; Minnesota Rules, part 1205.1800.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 12, as follows:

Those who voted in the affirmative were:

Anderson  
Bakk  
Berglin  
Betzold  
Bonoff  
Carlson  
Clark  
Cohen  
Dahle  
Day  
Erickson Ropes

Fischbach  
Fobbe  
Foley  
Frederickson  
Gimse  
Higgins  
Ingebrigtsen  
Kelash  
Koering  
Langseth  
Latz

Limmer  
Lourey  
Lynch  
Metzen  
Michel  
Moua  
Murphy  
Olseen  
Olson, G.  
Olson, M.  
Pappas

Pogemiller  
Prettner Solon  
Rest  
Robling  
Rosen  
Saltzman  
Saxhaug  
Scheid  
Senjem  
Sheran  
Sieben

Skoe  
Skogen  
Sparks  
Tomassoni  
Torres Ray  
Vickerman  
Wiger

Those who voted in the negative were:

Dibble  
Dille  
Doll

Gerlach  
Hann  
Jungbauer

Koch  
Kubly  
Marty

Rummel  
Stumpf  
Vandev eer

So the bill passed and its title was agreed to.

**S.F. No. 341:** A bill for an act relating to health; modifying provisions for disposition of a deceased person; amending Minnesota Statutes 2008, sections 3.736, subdivision 6; 149A.80, subdivision 2; 466.05, subdivision 2; 573.02, subdivisions 1, 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 41 and nays 24, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Latz	Pogemiller	Skoe
Bakk	Doll	Lourey	Prettner Solon	Sparks
Berglin	Erickson Ropes	Lynch	Rest	Tomassoni
Betzold	Foley	Marty	Rummel	Torres Ray
Bonoff	Higgins	Metzen	Saltzman	Wiger
Carlson	Kelash	Moua	Saxhaug	
Clark	Koering	Murphy	Scheid	
Cohen	Kubly	Olson, M.	Sheran	
Dahle	Langseth	Pappas	Sieben	

Those who voted in the negative were:

Day	Gerlach	Jungbauer	Olson, G.	Skogen
Dille	Gimse	Koch	Pariseau	Stumpf
Fischbach	Hann	Limmer	Robling	Vandevveer
Fobbe	Ingebrigtsen	Michel	Rosen	Vickerman
Frederickson	Johnson	Olseen	Senjem	

So the bill passed and its title was agreed to.

**S.F. No. 1611:** A bill for an act relating to insurance; authorizing the Nonprofit Insurance Trust to self-insure against certain liabilities; amending Minnesota Statutes 2008, sections 471.98, subdivision 2; 471.982, subdivision 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koering	Olson, G.	Senjem
Bakk	Fobbe	Kubly	Olson, M.	Sheran
Berglin	Foley	Langseth	Pappas	Sieben
Betzold	Frederickson	Latz	Pariseau	Skoe
Bonoff	Gerlach	Limmer	Pogemiller	Skogen
Carlson	Gimse	Lourey	Prettner Solon	Sparks
Clark	Hann	Lynch	Rest	Stumpf
Dahle	Higgins	Marty	Robling	Tomassoni
Day	Ingebrigtsen	Metzen	Rosen	Torres Ray
Dibble	Johnson	Michel	Rummel	Vickerman
Dille	Jungbauer	Moua	Saltzman	Wiger
Doll	Kelash	Murphy	Saxhaug	
Erickson Ropes	Koch	Olseen	Scheid	

Those who voted in the negative were:

Vandevveer

So the bill passed and its title was agreed to.

**S.F. No. 910:** A bill for an act relating to employment; regulating the employment status of certain truckers for the purpose of unemployment compensation and workers' compensation; amending Minnesota Statutes 2008, section 268.035, subdivision 25b; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Rules, parts 5224.0290; 5224.0291; 5224.0292.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olseen	Senjem
Bakk	Fischbach	Koering	Olson, M.	Sheran
Berglin	Fobbe	Kubly	Pappas	Sieben
Betzold	Foley	Langseth	Pariseau	Skoe
Bonoff	Frederickson	Latz	Pogemiller	Skogen
Carlson	Gerlach	Limmer	Prettner Solon	Sparks
Clark	Gimse	Lourey	Rest	Stumpf
Cohen	Hann	Lynch	Robling	Tomassoni
Dahle	Higgins	Marty	Rosen	Torres Ray
Day	Ingebrigtsen	Metzen	Rummel	Vickerman
Dibble	Johnson	Michel	Saltzman	Wiger
Dille	Jungbauer	Moua	Saxhaug	
Doll	Kelash	Murphy	Scheid	

Those who voted in the negative were:

Vandever

So the bill passed and its title was agreed to.

**S.F. No. 1469:** A bill for an act relating to health; prohibiting an individual health plan from refusing to issue coverage because of a previous cesarean delivery; amending Minnesota Statutes 2008, section 62A.65, subdivision 4.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 5, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kubly	Olson, G.	Scheid
Bakk	Erickson Ropes	Langseth	Olson, M.	Senjem
Berglin	Fischbach	Latz	Pappas	Sheran
Betzold	Fobbe	Limmer	Pariseau	Sieben
Bonoff	Foley	Lourey	Pogemiller	Skoe
Carlson	Frederickson	Lynch	Prettner Solon	Skogen
Clark	Gimse	Marty	Rest	Sparks
Cohen	Higgins	Metzen	Robling	Stumpf
Dahle	Johnson	Michel	Rosen	Tomassoni
Day	Kelash	Moua	Rummel	Torres Ray
Dibble	Koch	Murphy	Saltzman	Vickerman
Dille	Koering	Olseen	Saxhaug	Wiger

Those who voted in the negative were:

Gerlach                      Hann                      Ingebrigtsen                      Jungbauer                      Vandever

So the bill passed and its title was agreed to.

**S.F. No. 1479:** A bill for an act relating to health; making technical changes to electronic prescription drug program; enrolling licensed pharmacies or pharmacists as providers in the pediatric vaccine administration program; amending Minnesota Statutes 2008, section 62J.497, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapter 145.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olseen	Scheid
Bakk	Fischbach	Koering	Olson, G.	Senjem
Berglin	Fobbe	Kubly	Olson, M.	Sheran
Betzold	Foley	Langseth	Pappas	Sieben
Bonoff	Frederickson	Latz	Pariseau	Skoe
Carlson	Gerlach	Limmer	Pogemiller	Skogen
Clark	Gimse	Lourey	Prettner Solon	Sparks
Cohen	Hann	Lynch	Rest	Stumpf
Dahle	Higgins	Marty	Robling	Tomassoni
Day	Ingebrigtsen	Metzen	Rosen	Torres Ray
Dibble	Johnson	Michel	Rummel	Vandever
Dille	Jungbauer	Moua	Saltzman	Vickerman
Doll	Kelash	Murphy	Saxhaug	Wiger

So the bill passed and its title was agreed to.

**S.F. No. 1435:** A bill for an act relating to health occupations; changing provisions on licensure of nutritionists; amending Minnesota Statutes 2008, section 148.624, subdivision 2; repealing Minnesota Statutes 2008, section 148.627, subdivisions 1, 2, 3, 4, 5.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olson, G.	Senjem
Bakk	Fischbach	Koering	Olson, M.	Sheran
Berglin	Fobbe	Kubly	Pappas	Sieben
Betzold	Foley	Langseth	Pariseau	Skoe
Bonoff	Frederickson	Latz	Pogemiller	Skogen
Carlson	Gerlach	Lourey	Prettner Solon	Sparks
Clark	Gimse	Lynch	Rest	Stumpf
Cohen	Hann	Marty	Robling	Tomassoni
Dahle	Higgins	Metzen	Rosen	Torres Ray
Day	Ingebrigtsen	Michel	Rummel	Vickerman
Dibble	Johnson	Moua	Saltzman	Wiger
Dille	Jungbauer	Murphy	Saxhaug	
Doll	Kelash	Olseen	Scheid	

Those who voted in the negative were:

Limmer                      Vandever

So the bill passed and its title was agreed to.

**S.F. No. 908:** A bill for an act relating to public safety; modifying requirements of eligibility based on military experience for reciprocity examination for a peace officer; amending Minnesota Statutes 2008, section 626.8517.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 3, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Pappas	Sieben
Berglin	Fobbe	Langseth	Pariseau	Skoe
Betzold	Frederickson	Latz	Pogemiller	Skogen
Bonoff	Gerlach	Lourey	Prettner Solon	Sparks
Carlson	Gimse	Lynch	Rest	Stumpf
Clark	Hann	Marty	Robling	Tomassoni
Cohen	Higgins	Metzen	Rosen	Torres Ray
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

Those who voted in the negative were:

Foley	Limmer	Vandever
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So the bill passed and its title was agreed to.

### RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

### CALL OF THE SENATE

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

### MOTIONS AND RESOLUTIONS - CONTINUED

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

### REPORTS OF COMMITTEES

Senator Clark moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

**S.F. No. 702:** A bill for an act relating to state employees; modifying the vacation donation program; amending Minnesota Statutes 2008, section 43A.1815.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

**S.F. No. 1504:** A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4835, subdivisions 1, 2; 245.4885, subdivision 1; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8, by adding a subdivision; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

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

Page 3, line 5, before "declining" insert "substantially"

Page 3, line 6, before "higher" insert "substantially" and before the period, insert ", and the commissioner has determined that mental health services in that county would not be negatively impacted"

Page 5, after line 10, insert:

"Sec. 5. Minnesota Statutes 2008, section 245.50, subdivision 5, is amended to read:

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness or chemical dependency. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to

direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. Such examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital that is under contract with a Minnesota governmental entity under this section provided the resident, in the opinion of the examiner, meets the criteria in section 253B.05."

Renumber the sections in sequence

Amend the title accordingly

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

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

**S.F. No. 1867:** A bill for an act relating to state government; creating the Minnesota Geospatial Information Office; proposing coding for new law in Minnesota Statutes, chapter 16A; repealing Minnesota Statutes 2008, section 4A.05.

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

Page 3, lines 5, 6, and 7, delete "fund" and insert "account"

Page 4, delete subdivision 8 and insert:

"Subd. 8. **Geospatial advisory councils created.** The chief geospatial information officer shall establish a governance structure that includes advisory councils to provide recommendations for improving the operations and management of geospatial technology within state government and also on issues of importance to users of geospatial technology throughout the state.

(a) A statewide geospatial advisory council shall advise the Minnesota Geospatial Information Office regarding the improvement of services statewide through the coordinated, affordable, reliable, and effective use of geospatial technology. The commissioner of administration shall appoint the members of the council. The members shall represent a cross-section of organizations including counties, cities, universities, business, nonprofit organizations, federal agencies, and state agencies. No more than 20 percent of the members may be employees of a state agency. In addition, the chief geospatial information officer shall be a nonvoting member.

(b) A state government geospatial advisory council shall advise the Minnesota Geospatial Information Office on issues concerning improving state government services through the coordinated, affordable, reliable, and effective use of geospatial technology. The commissioner of

administration shall appoint the members of the council. The members shall represent up to 15 state government agencies and constitutional offices, including the Office of Enterprise Technology and the Minnesota Geospatial Information Office. The council shall be chaired by the chief geographic information officer. A representative of the statewide geospatial advisory council shall serve as a nonvoting member.

(c) Members of both the statewide geospatial advisory council and the state government advisory council shall be recommended by a process that ensures that each member is designated to represent a clearly identified agency or interested party category and that complies with the state's open appointment process. Members shall serve a term of two years.

(d) The Minnesota Geospatial Information Office shall provide administrative support for both geospatial advisory councils.

(e) This subdivision expires June 30, 2011."

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

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

**S.F. No. 1889:** A bill for an act relating to state government; requiring certain settlements involving the state to be paid to the state general fund; amending Minnesota Statutes 2008, section 16A.151, subdivision 2.

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

Page 2, line 3, delete everything before "on" and insert "actions commenced"

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

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

**S.F. No. 1982:** A bill for an act relating to veterans; requiring an interview for veterans listed as meeting minimum qualifications and claiming veterans preference for positions of state government employment; applying to state civil service certain removal provisions in current local government law; requiring a report of certain state employment statistics pertaining to veterans; amending Minnesota Statutes 2008, sections 43A.11, subdivision 7; 197.455, subdivision 1.

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

Page 1, line 16, after "be" insert "considered for the position. The top five recently separated veterans must be"

Page 1, line 23, delete "appointments made" and insert "vacancies posted"

Page 2, line 9, delete "such" and insert "the"

Page 2, line 20, after the second period, insert "[197.456]"

Page 3, line 13, delete "administration" and insert "finance"

Amend the title accordingly

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

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

**S.F. No. 1331:** A bill for an act relating to elections; changing certain absentee ballot requirements and provisions; amending Minnesota Statutes 2008, sections 203B.04, subdivisions 1, 6; 203B.05, subdivision 1; 203B.06, subdivision 3; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.12; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.45, subdivision 2; 204B.46; 204C.10; 204C.13, subdivision 6; 204C.27; 204C.30, by adding a subdivision; 204C.33, subdivisions 1, 3; 205.185, subdivision 3, by adding a subdivision; 205A.10, subdivisions 2, 3, by adding a subdivision; 206.89, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 203B; repealing Minnesota Statutes 2008, sections 203B.04, subdivision 5; 203B.10; 203B.13, subdivisions 1, 2, 3, 4; 203B.25.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 10A.31, subdivision 6, is amended to read:

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue ~~on September 1~~ one week before the state primary, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate files the affidavit required by section 10A.323 after September 1 of the general election year, the board must pay the candidate's allocation to the candidate at the next regular payment date for public subsidies for that election cycle that occurs at least 15 days after the candidate files the affidavit.~~

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 2. Minnesota Statutes 2008, section 10A.321, is amended to read:

**10A.321 ESTIMATES OF MINIMUM AMOUNTS TO BE RECEIVED.**

Subdivision 1. **Calculation and certification of estimates.** The commissioner of revenue must calculate and certify to the board one week before July 1 ~~the first day for filing for office~~ in each election year an estimate of the total amount in the state general account of the state elections campaign fund and the amount of money each candidate who qualifies, as provided in section 10A.31, subdivisions 6 and 7, may receive from the candidate's party account in the state elections campaign fund. This estimate must be based upon the allocations and formulas in section 10A.31, subdivisions 5 and 5a, any necessary vote totals provided by the secretary of state to apply the formulas in section 10A.31, subdivisions 5 and 5a, and the amount of money expected to be available after 100 percent of the tax returns have been processed.

Subd. 2. **Publication, certification, and notification procedures.** Before the first day of filing for office, the board must publish and forward to all filing officers the estimates calculated and certified under subdivision 1 along with a copy of section 10A.25, subdivision 10. Within ~~seven days~~ one week after the last day for filing for office, the secretary of state must certify to the board the name, address, office sought, and party affiliation of each candidate who has filed with that office an affidavit of candidacy or petition to appear on the ballot. The auditor of each county must certify to the board the same information for each candidate who has filed with that county an affidavit of candidacy or petition to appear on the ballot. ~~By August 15~~ Within two weeks after the last day for filing for office, the board must notify all candidates of their estimated minimum amount. The board must include with the notice a form for the agreement provided in section 10A.322 along with a copy of section 10A.25, subdivision 10.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 3. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board ~~by September 1 preceding the candidate's general election or a special election held at the general election~~ at least three weeks before the candidate's state primary. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the candidate files the affidavit of candidacy or nominating petition for the office.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 4. Minnesota Statutes 2008, section 10A.323, is amended to read:

#### **10A.323 AFFIDAVIT OF CONTRIBUTIONS.**

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that ~~during that calendar year~~ between January 1 of the election year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election, the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor:

- (1) candidates for governor and lieutenant governor running together, \$35,000;

- (2) candidates for attorney general, \$15,000;
- (3) candidates for secretary of state and state auditor, separately, \$6,000;
- (4) candidates for the senate, \$3,000; and
- (5) candidates for the house of representatives, \$1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of \$50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the ~~cut-off date~~ deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after filing the affidavit of candidacy.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 5. Minnesota Statutes 2008, section 103C.305, subdivision 1, is amended to read:

Subdivision 1. **Time for election.** Elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary ~~may not~~ must be held if there are more than two candidates for any available supervisor position.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 6. Minnesota Statutes 2008, section 103C.305, subdivision 3, is amended to read:

Subd. 3. **Ballots.** Ballots shall be prepared by the county auditor. The names of candidates shall be placed on the "~~early~~ state general election ballot" described in section 204D.11, subdivision 3. The office title printed on the ballot must be either "Soil and Water Conservation District Supervisor" or "Conservation District Supervisor," based upon the district from which the supervisor is to be elected.

Sec. 7. Minnesota Statutes 2008, section 135A.17, subdivision 2, is amended to read:

Subd. 2. ~~**Residential housing list**~~ **List of enrolled students.** ~~All postsecondary institutions that enroll students accepting state or federal financial aid may~~ (a) Institutions within the Minnesota State Colleges and Universities must prepare a current list of students enrolled in the institution and residing in the institution's housing or within ten miles of the institution's campus in Minnesota. The list shall must include each student's name and current address, unless the name or address is not designated as public data under section 13.32, subdivision 5. The list shall must be certified and sent to the appropriate county auditor or auditors secretary of state no earlier than 30 and no later than 25 days before the November general election, in an electronic format specified by the secretary of state, for use in election day registration as provided under section 201.061, subdivision 3. The certification must be dated and signed by the chief officer or designee of the postsecondary educational institution, or for institutions within the Minnesota State Colleges and Universities, by the chancellor, and must state that the list is current and accurate and includes only the names of currently enrolled students residing in Minnesota as of the date of certification. The secretary of

state must combine the data received from each postsecondary educational institution under this subdivision and must process the data to locate the precinct in which the address provided for each student is located. If the data submitted by the postsecondary educational institution is insufficient for the secretary of state to locate the proper precinct, the associated student name must not appear in any list forwarded to a county auditor under this subdivision.

At least 14 days before the November general election, the secretary of state must forward to the appropriate county auditor lists of students containing the students' names and addresses for which precinct determinations have been made along with their postsecondary educational institutions. The list must be sorted by precinct and student last name and must be forwarded in an electronic format specified by the secretary of state or other mutually agreed upon medium, if a written agreement specifying the medium is signed by the secretary of state and the county auditor at least 90 days before the November general election. A written agreement is effective for all elections until rescinded by either the secretary of state or the county auditor.

(b) Other postsecondary institutions may provide lists as provided by this subdivision or as provided by the rules of the secretary of state. The University of Minnesota is requested to comply with this subdivision.

(c) A residential housing list provided under this subdivision may not be used or disseminated by a county auditor or the secretary of state for any other purpose.

Sec. 8. Minnesota Statutes 2008, section 201.016, subdivision 1a, is amended to read:

Subd. 1a. **Violations; penalty.** (a) The county auditor shall mail a ~~violation~~ notice to any voter who the county auditor can determine has ~~voted~~: (1) provided the address at which the voter maintains residence, but was allowed to vote in a precinct other than the precinct in which the voter maintains residence; and (2) not voted in the wrong precinct previously. The notice must be in the form provided by the secretary of state.

(b) The county auditor shall mail a violation notice to any voter who otherwise voted in a precinct in which the voter did not maintain residence on election day. The county auditor shall also change the status of the voter in the statewide registration system to "challenged" and the voter shall be required to provide proof of residence to either the county auditor or to the election judges in the voter's precinct before voting in the next election. Any of the forms authorized by section 201.061 for registration at the polling place may be used for this purpose.

~~(b)~~ (c) A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice as provided in this subdivision is guilty of a petty misdemeanor.

~~(c)~~ (d) A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor under paragraph (b) is guilty of a misdemeanor.

~~(d)~~ (e) Reliance by the voter on inaccurate information regarding the location of the voter's polling place provided by the state, county, or municipality is an affirmative defense to a prosecution under this subdivision.

Sec. 9. Minnesota Statutes 2008, section 201.016, subdivision 2, is amended to read:

Subd. 2. **Duration of residence.** The governing body of any city by resolution may require an eligible voter to maintain residence in a precinct for a period of 30 days prior to voting on any question affecting only that precinct or voting to elect public officials representing only that precinct. The governing body of any town by resolution may require an eligible voter to maintain residence in that town for a period of 30 days prior to voting in a town election. The school board of any school district by resolution may require an eligible voter to maintain residence in that school district for a period of 30 days prior to voting in a school district election. If a political boundary, including a precinct, municipal, or school district boundary, is redrawn within the 30 days prior to an election in a manner that places an eligible voter in a new jurisdiction and the eligible voter has not changed residence during the 30 days before the election, the eligible voter meets any residency requirement imposed under this subdivision.

Sec. 10. Minnesota Statutes 2008, section 201.022, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The secretary of state shall maintain a statewide voter registration system to facilitate voter registration and to provide a central database containing voter registration information from around the state. The system must be accessible to the county auditor of each county in the state. The system must also:

- (1) provide for voters to submit their voter registration applications to any county auditor, the secretary of state, or the Department of Public Safety;
- (2) provide for the definition, establishment, and maintenance of a central database for all voter registration information;
- (3) provide for entering data into the statewide registration system;
- (4) provide for electronic transfer of completed voter registration applications from the Department of Public Safety to the secretary of state or the county auditor;
- (5) assign a unique identifier to each legally registered voter in the state;
- (6) provide for the acceptance of the Minnesota driver's license number, Minnesota state identification number, and last four digits of the Social Security number for each voter record;
- (7) coordinate with other agency databases within the state;
- (8) allow county auditors and the secretary of state to add or modify information in the system to provide for accurate and up-to-date records;
- (9) allow county auditors, municipal and school district clerks, and the secretary of state to have electronic access to the statewide registration system for review and search capabilities;
- (10) provide security and protection of all information in the statewide registration system and ensure that unauthorized access is not allowed;
- (11) provide access to municipal clerks to use the system;
- (12) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes;
- (13) provide daily reports accessible by county auditors on the driver's license numbers, state

identification numbers, or last four digits of the Social Security numbers submitted on voter registration applications that have been verified as accurate by the secretary of state; ~~and~~

(14) provide reports on the number of absentee ballots transmitted to and returned and cast by voters under section 203B.16; and

(15) provide rosters, master lists, and other reports necessary for early voting.

The appropriate state or local official shall provide security measures to prevent unauthorized access to the computerized list established under section 201.021.

Sec. 11. Minnesota Statutes 2008, section 201.056, is amended to read:

**201.056 SIGNATURE OF REGISTERED VOTER; MARKS ALLOWED.**

An individual who is unable to write the individual's name shall be required to sign a registration application in the manner provided by section 645.44, subdivision 14. If the individual registers in person and signs by making a mark, the clerk or election judge accepting the registration shall certify the mark by signing the individual's name. If the individual registers by mail and signs by making a mark, the mark shall be certified by having a voter registered in the individual's precinct sign the individual's name and the voter's own name and give the voter's own address. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 12. Minnesota Statutes 2008, 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 regularly scheduled 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 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. If the Web site maintained by the secretary of state provides a process for it, an individual who has a Minnesota driver's license, identification card, or learner's permit may register online. 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 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 applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten business days after the 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. 13. Minnesota Statutes 2008, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for

purposes of registering by:

(1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) presenting any document approved by the secretary of state as proper identification;

(3) presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 ~~and certified to the county auditor~~ or in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct, or who is an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to 15 proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof-of-residence oaths. For each proof-of-residence oath, the form must include a statement that the voter is registered to vote in the precinct, personally knows that the individual is a resident of the precinct, and is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.

The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application.

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

(c) "Residential facility" means transitional housing as defined in section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for

the homeless.

(d) For tribal band members, an individual may prove residence for purposes of registering by:

(1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or

(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

(e) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

Sec. 14. Minnesota Statutes 2008, section 201.071, subdivision 1, is amended to read:

Subdivision 1. **Form.** A voter registration 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, and 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 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 in which the court order revokes my right to vote;
- (6) have not been found by a court to be legally incompetent to vote;
- (7) have the right to vote because, if I have been convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; 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 application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

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

A paper voter registration application must include space for the voter's signature. Paper voter registration applications, other than those used for election day registration, must be of suitable size and weight for mailing.

Sec. 15. Minnesota Statutes 2008, section 201.091, is amended by adding a subdivision to read:

Subd. 5a. **Registration confirmation to registered voter.** The secretary of state must ensure that the secretary of state's Web site is capable of providing voter registration confirmation to a registered voter. An individual requesting registration confirmation must provide the individual's name, address, and date of birth. If the information provided by the individual completely matches an active voter record in the statewide voter registration system, the Web site must inform the individual that the individual is a registered voter and must provide the individual with the individual's polling place location. If the information provided by the individual does not completely match an active voter record in the statewide voter registration system, the Web site must inform the individual that a voter record with that name and date of birth at the address provided cannot be confirmed and the Web site must advise the individual to contact the county auditor for further information.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the Web site has been tested, shown to properly retrieve information from the correct voter's record, and can handle the expected volume of use.

Sec. 16. Minnesota Statutes 2008, section 201.11, is amended to read:

**201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESSES CHANGED, CHANGE OF FILES.**

Subdivision 1. **Precinct boundaries changed.** When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. **House number or street address changed.** If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days before an election in a jurisdiction that includes the affected residence.

Sec. 17. Minnesota Statutes 2008, section 201.12, is amended to read:

**201.12 PROPER REGISTRATION; VERIFICATION BY MAIL; CHALLENGES.**

Subdivision 1. **Notice of registration.** To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

Subd. 2. **Moved within state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address in this state, the county auditor may change the voter's status to "inactive" in the statewide registration system and shall ~~notify~~ transmit a copy of the mailing to the auditor of the county in which the new address is located. ~~Upon receipt of the notice,~~ If an election is scheduled to occur in the precinct in which the voter resides in the next 47 days, the county auditor shall promptly update the voter's address in the statewide voter registration system and. If there is not an election scheduled, the auditor may wait to update the voter's address until after the next list of address changes is received from the secretary of state. Once updated, the county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

Subd. 3. **Moved out of state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address outside this state, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence. ~~If the notice is not received by the deadline, the county auditor shall change the voter's status~~ shall be changed to "inactive" in the statewide voter registration system.

Subd. 4. **Challenges.** If any nonforwardable mailing from an election official is returned as undeliverable but with no forwarding address, the county auditor shall change the registrant's status to "challenged" in the statewide voter registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote. If a notice mailed at least 60 days after the return of the first nonforwardable mailing is also returned by the postal service, the county auditor shall change the registrant's status to "inactive" in the statewide voter registration system.

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

Sec. 18. Minnesota Statutes 2008, section 201.13, is amended to read:

**201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.**

Subdivision 1. **Commissioner of health; reports of deceased residents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in

the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 2. **Deceased nonresidents.** After receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased." Notice must be in the form of a printed obituary or a written statement signed by a registered voter ~~of the county~~.

Subd. 3. **Use of change of address system.** (a) At least once each month the secretary of state shall obtain a list of individuals registered to vote in this state who have filed with the United States Postal Service a change of their permanent address. However, the secretary of state shall not obtain this list within the 47 days before the state primary or 47 days before a November general election.

(b) If the address is changed to another address in this state, the secretary of state shall locate the precinct in which the voter resides, if possible. If the secretary of state is able to locate the precinct in which the voter resides, the secretary must transmit the information about the changed address by electronic means to the county auditor of the county in which the new address is located. If the voter has not voted or submitted a voter registration application since the address change, upon receipt of the information, the county auditor shall update the voter's address in the statewide voter registration system and. The county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, unless the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, in which case the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

~~(b)~~ (c) If the change of permanent address is to an address outside this state, the secretary of state shall notify by electronic means the auditor of the county where the voter formerly resided that the voter has moved to another state. If the voter has not voted or submitted a voter registration application since the address change, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Request for removal of voter record.** If a voter makes a written request for removal of the voter's record, the county auditor shall remove the record of the voter from the statewide voter registration system.

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

Sec. 19. Minnesota Statutes 2008, section 202A.14, subdivision 3, is amended to read:

Subd. 3. **Notice.** The county or legislative district chair shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus, ~~and. The state party chair shall deliver the same information to the municipal clerk and county~~

~~auditor~~ secretary of state in an electronic format designated by the secretary of state at least ~~20~~ 30 days before the precinct caucus. ~~The county auditor~~ secretary of state shall make this information available in electronic format via the secretary of state's Web site at least ten days before the date of the caucuses ~~to persons who request it.~~

Sec. 20. Minnesota Statutes 2008, section 203B.001, is amended to read:

**203B.001 ELECTION LAW APPLICABILITY.**

The Minnesota Election Law is applicable to voting by absentee ballot and early voting unless otherwise provided in this chapter.

Sec. 21. Minnesota Statutes 2008, section 203B.01, is amended by adding a subdivision to read:

Subd. 5. **Early voting.** "Early voting" means voting in person before election day at the office of the county auditor or any other location authorized in this chapter.

Sec. 22. Minnesota Statutes 2008, section 203B.02, subdivision 3, is amended to read:

Subd. 3. **Permanent Indefinite residence abroad.** A United States citizen living permanently indefinitely outside the United States who is eligible under federal law to vote in federal elections in Minnesota may vote by absentee ballot only as provided in sections 203B.16 to 203B.27.

Sec. 23. Minnesota Statutes 2008, section 203B.03, subdivision 1, is amended to read:

Subdivision 1. **Violation.** No individual shall intentionally:

- (a) make or sign any false certificate required by this chapter;
- (b) make any false or untrue statement in any application for absentee ballots;
- (c) apply for absentee ballots or cast an early ballot more than once in any election with the intent to cast an illegal ballot;
- (d) exhibit a ballot marked by that individual to any other individual;
- (e) do any act in violation of the provisions of this chapter for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
- (f) use information from absentee ballot or early voting materials or records for purposes unrelated to elections, political activities, or law enforcement;
- (g) provide assistance to an absentee or early voter except in the manner provided by section 204C.15, subdivision 1;
- (h) solicit the vote of an absentee or early voter while in the immediate presence of the voter during the time the individual knows the absentee or early voter is voting; or
- (i) alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.

Before inspecting information from absentee ballot or early voting materials or records, an individual shall provide identification to the public official having custody of the material or information.

Sec. 24. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state, ~~notwithstanding rules on absentee ballot forms,~~ and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

~~(a)~~ (1) the county auditor of the county where the applicant maintains residence; or

~~(b)~~ (2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. ~~The application may~~ must contain a request for the ~~voter's~~ applicant's date of birth, ~~which the applicant's Minnesota driver's license or state identification card number, and the last four digits of the applicant's Social Security number, if the applicant has these numbers, an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury. An applicant's full date of birth, driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.~~

An application under this subdivision may contain an application under subdivision ~~5~~ 6 to automatically receive an absentee ballot ~~application~~.

Sec. 25. Minnesota Statutes 2008, section 203B.04, subdivision 6, is amended to read:

Subd. 6. **Ongoing absentee status; termination.** (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. ~~The voter may decline to receive an absentee ballot for one or more elections if that request is received by the county auditor or municipal clerk at least five days before the deadline in section 204B.35 for delivering ballots for the election to which it applies. Sixty days before each state primary, the county auditor must send each voter with ongoing absentee ballot status a nonforwardable postcard to notify the voter when the voter can expect to receive the ballots. Each applicant must automatically be provided with an absentee ballot application for each ensuing election other than an election by mail conducted under section 204B.45, or as otherwise requested by the voter, and must have the status of ongoing absentee voter indicated on the voter's registration record.~~

(b) Ongoing absentee voter status ends on:

- (1) the voter's written request;
- (2) the voter's death;
- (3) return of an ongoing absentee ballot as undeliverable;
- (4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or
- (5) placement of the voter's registration on inactive status under section 201.171.

By May 1, 2010, each county auditor shall mail an explanation of the changes to the ongoing absentee balloting process and an updated ongoing absentee voter application to every voter with ongoing absentee ballot status in their county. A voter must return the application to maintain the voter's status as an ongoing absentee voter. Upon receipt of a completed application, the county auditor shall scan an image of the application and update the voter's record with any new or changed information.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested and shown to properly allow for the issuance of ballots to ongoing absentee voters.

Sec. 26. Minnesota Statutes 2008, section 203B.05, is amended to read:

**203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER EARLY AND ABSENTEE VOTING LAWS.**

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 and 203B.30 to 203B.35, if:

- ~~(a)~~ (1) the county auditor of that county has designated the clerk to administer them; or
- ~~(b)~~ (2) the clerk has given the county auditor of that county notice of intention to administer them.

A clerk may only administer the provisions of sections 203B.04 to 203B.15 and 203B.30 to 203B.35, if the clerk has the technical capacity to access the absentee ballot module of the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk designated under this subdivision must receive training approved by the secretary of state on the use of the statewide voter registration system. A clerk may not use the statewide voter registration system until the clerk has received the required training.

Subd. 2. **City, school district, and town elections.** For city, town, and school district elections not held on the same day as a statewide election, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the

city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

Sec. 27. Minnesota Statutes 2008, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section ~~203B.13~~ 203B.12, subdivision 2 3a, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 28. Minnesota Statutes 2008, section 203B.06, subdivision 5, is amended to read:

Subd. 5. **Preservation of records.** An application for absentee ballots shall be dated by the county auditor or municipal clerk when it is received and shall be initialed when absentee ballots are mailed or delivered to the applicant. All applications shall be preserved by the county auditor or municipal clerk ~~and arranged according to precincts and the initial letter of the applicant's surname for 22 months.~~

Sec. 29. [203B.065] RECORDING APPLICATIONS.

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide registration system the voter's name, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter, that an absentee ballot has been transmitted to the voter, the method of transmission, and the date of transmission.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 30. Minnesota Statutes 2008, section 203B.07, subdivision 2, is amended to read:

Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. ~~If the voter was not previously registered,~~ The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Sec. 31. Minnesota Statutes 2008, section 203B.07, subdivision 3, is amended to read:

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number or to indicate that they do not have one, and a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot, that the ballots were unmarked when received by the voter, and that the voter personally marked the ballots without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them. If the voter was not previously registered at that address, the certificate shall also contain space for a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths a United States citizen of voting age stating that-

~~(1) the ballots were displayed to that individual unmarked;~~

~~(2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and~~

~~(3) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.~~

Sec. 32. Minnesota Statutes 2008, section 203B.08, subdivision 2, is amended to read:

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to:

~~(a) the county auditor or municipal clerk who sent the ballots to the voter; has the responsibility to accept and reject the absentee ballots.~~

~~(b) the clerk of the town or city in which the absent voter is eligible to vote; or~~

~~(c) the appropriate election judges.~~

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 33. Minnesota Statutes 2008, section 203B.08, subdivision 3, is amended to read:

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to the appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 34. Minnesota Statutes 2008, section 203B.08, is amended by adding a subdivision to read:

Subd. 5. **Absentee ballot status.** The secretary of state must ensure that the secretary of state's Web site is capable of providing voters with information about the status of their absentee ballots. An individual requesting the status of the individual's absentee ballot must provide the individual's name, address, date of birth, Minnesota driver's license number, state identification number, or the last four digits of the individual's Social Security number. If the information provided by the individual completely matches an absentee voter record in the statewide voter registration system, the Web site must provide the individual with the status of the individual's absentee ballot.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the Web site has been tested and shown to properly retrieve information from the correct voter's record, and can handle the expected volume of use.

Sec. 35. Minnesota Statutes 2008, section 203B.081, is amended to read:

**203B.081 LOCATIONS FOR ABSENTEE VOTING IN PERSON.**

An eligible voter may vote by absentee ballot during the 30 days before the election up until the fourth day before the election in the office of the county auditor and at any other polling place designated by the county auditor. On the day before the election, voters who had planned on voting in person in the polling place and only learned of circumstances in the last four days that will prevent them from doing so may vote by absentee ballot. The county auditor shall make such designations at least 90 days before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Sec. 36. Minnesota Statutes 2008, section 203B.085, is amended to read:

**203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.**

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the fourth day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. On the day before the election, the office must be open for acceptance of absentee ballot applications and to allow a voter to cast an absentee ballot if the voter provides additional certification stating that the voter had planned on voting in person at the polling place but became aware of circumstances within the four days preceding the day before the election that prevent the voter from voting in person at the polling place. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

Sec. 37. Minnesota Statutes 2008, section 203B.11, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee and early voting laws shall designate election judges to deliver ~~absentee~~ ballots in accordance with this section. The county auditor must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. The election judges must bring a ballot box. Both election judges shall be present when an applicant completes the certificate of eligibility signs the certification required by section 204C.10, paragraph (b) and marks the absentee ballots, and may assist an applicant as provided in section 204C.15. Voters must insert their ballots into the ballot box. The election judges shall deposit the return envelopes containing the marked absentee ballots remove the ballots from the ballot box, place them in a sealed container and return them to the clerk on the same day that they are delivered and marked.

Election judges may bring an electronic ballot counter to serve as the ballot box. Election judges may bring an electronic ballot marker.

Sec. 38. Minnesota Statutes 2008, section 203B.12, is amended to read:

**203B.12 ELECTION JUDGES TO RECEIVE AND COUNT BALLOTS BALLOT BOARDS.**

Subdivision 1. **Receipt of return envelopes Establishment.** The election judges in each precinct or the judges of an absentee ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. The governing body of a county, municipality, or school district authorized to accept and reject absentee ballots must, by ordinance or resolution, authorize a ballot board. The board must consist of a sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.

Subd. 1a. **Compensation of members.** Each jurisdiction must pay a reasonable compensation to each member of the ballot board for that jurisdiction for services rendered during each election.

Subd. 1b. **Applicable laws.** Except as otherwise provided by this section, all of the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota election law apply to a ballot board.

Subd. 1c. **Receipt of return envelopes.** The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08.

Subd. 2. **Examination of return envelopes.** Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more ~~election judges~~ members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. ~~If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.~~

The ~~election judges~~ members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the ~~election judges~~ members of the ballot board or a majority of them are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot, except that if a person other than the voter applied for the absentee ballot under applicable Minnesota Rules, the signature is not required to match voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as the number provided on the voter's application

for ballots. If the number does not match the number as submitted on the application or if a number was not submitted on the application, the election judges must make a reasonable effort to satisfy themselves through other information provided by the applicant that the ballots were returned by the same person to whom the ballots were transmitted;

(4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

~~(4)~~ (5) the voter has not already voted at that election, either in person or by absentee ballot.

There is no other reason for rejecting an absentee ballot. In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the ~~election judges~~ members of the ballot board examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to ~~(4)~~ (5), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Subd. 3. **Notation on polling place roster.** (a) If the return envelope is marked with the word "Accepted," the election judges shall record the fact that the voter has voted by absentee ballot ~~on the polling place roster. This must be done by placing the letters "A.B." in the appropriate space on the roster or in a supplemental report provided to the precinct. In state primaries and state general elections, this fact must be noted in the statewide voter registration system.~~

(b) After a registration record has been marked to record that an individual has voted by absentee ballot, the individual shall not be allowed to vote in person at that election.

Subd. 3a. **Rejected ballots.** If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot. The official in charge of the election need not write "Replacement" on the replacement ballot.

If the ballot is rejected within five days before the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

Subd. 4. ~~**Placement in container; Opening and counting of ballots.**~~ The ballot envelopes ~~ballots from return envelopes marked "Accepted" shall be placed by the election judges in a separate absentee ballot container. The container and each ballot envelope may be opened only after the last regular mail delivery by the United States postal service on election day. The ballots shall then be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the election judges in the same manner as ballots delivered by them to voters in person~~ members of the ballot board, and shall be deposited in the appropriate ballot box.

If more than one ballot of any kind is enclosed in the ballot envelope, none of the ballots of that kind shall be counted but all ballots of that kind shall be returned in the manner provided by section 204C.25 for return of spoiled ballots.

Subd. 4a. **Storage and counting of ballots.** The ballot board must:

(1) remove the ballots from the ballot box and seal and secure them at the end of each day on which absentee ballots were inserted into the ballot box;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of absentee ballots accepted that day;

(3) before 9:00 a.m. on election day, mark the rosters or provide to the precinct a supplemental report of voters whose absentee ballot was accepted after the polling place rosters were generated; and

(4) verify that voters whose absentee ballots arrived after the rosters were marked or the supplemental report was generated have not voted in person, before opening, duplicating as needed, and inserting these ballots into the ballot box.

After the polls have closed, the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count is public. No vote totals from ballots may be made public before the close of voting on election day.

In state primary and state general elections, these vote totals must be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

If the task has not been completed previously, members of the ballot board must verify within 48 hours after election day that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day, before the members of the ballot board open the ballot envelopes, duplicate the ballots as needed, insert the ballots into the ballot box, count the ballots, and add the votes from these totals to the votes from the appropriate precincts.

~~Subd. 6. **Exception for municipalities or school districts with absentee ballot boards.** In municipalities or school districts with an absentee ballot board, the election judges in each precinct shall receive and process return envelopes and ballot envelopes as provided in this section except that the ballot envelopes from return envelopes marked "Accepted" shall be delivered in an absentee ballot container to the absentee ballot board for the counting of ballots as soon as possible after processing. Other law to the contrary notwithstanding, the governing body of a municipality or the school board of a school district with an absentee ballot precinct may authorize the judges of the absentee ballot precinct to validate ballots in the manner provided in this section. The vote totals provided by the absentee ballot board shall be included in the vote totals on the summary statements of the returns for the precinct in which they were received.~~

Subd. 7. **Names of persons submitting absentee ballots.** The names of voters who have submitted an absentee ballot return envelope to the county auditor or municipal clerk that has not been accepted by a ballot board may not be made available for public inspection until the close of voting on election day.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 39. Minnesota Statutes 2008, section 203B.125, is amended to read:

**203B.125 SECRETARY OF STATE TO MAKE RULES.**

The secretary of state shall adopt rules establishing methods and procedures for issuing ~~ballot cards~~ ballots and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ~~ballot cards~~ ballots before tabulation under section 203B.12.

Sec. 40. Minnesota Statutes 2008, section 203B.16, subdivision 2, is amended to read:

Subd. 2. **Permanent Indefinite residence outside United States.** Sections 203B.16 to 203B.27 provide the exclusive voting procedure for a person who is a United States ~~citizens who are citizen~~ living ~~permanently~~ indefinitely outside the territorial limits of the United States who ~~meet~~ meets all the qualifications of an eligible voter except residence in Minnesota, but who ~~are~~ is authorized by federal law to vote in Minnesota because ~~they~~ the person maintained residence in Minnesota for at least 20 days immediately prior to their departure from the United States. Individuals described in this subdivision shall be permitted to vote only for the offices of president, vice-president, senator in Congress, and representative in Congress.

Sec. 41. Minnesota Statutes 2008, section 203B.17, subdivision 1, is amended to read:

Subdivision 1. **Submission of application.** (a) An application for absentee ballots for a voter described in section 203B.16 may be submitted in writing or by electronic facsimile device, or by electronic mail ~~upon determination by the secretary of state that security concerns have been adequately addressed~~ as an attachment. An application for absentee ballots for a voter described in section 203B.16 may be submitted by that voter or by that voter's parent, spouse, sister, brother, or child over the age of 18 years. ~~For purposes of an application under this subdivision, a person's Social Security number, no matter how it is designated, qualifies as the person's military identification number if the person is in the military.~~

(b) An application for a voter described in section 203B.16, subdivision 1, shall be submitted to the county auditor of the county where the voter maintains residence.

(c) An application for a voter described in section 203B.16, subdivision 2, shall be submitted to the county auditor of the county where the voter last maintained residence in Minnesota.

(d) An application for absentee ballots shall be valid for any primary, special primary, general election, or special election from the time the application is received through the next two regularly scheduled general elections for federal office held after the date on which the application is received.

(e) There shall be no limitation of time for filing and receiving applications for ballots under sections 203B.16 to 203B.27.

Sec. 42. Minnesota Statutes 2008, section 203B.19, is amended to read:

**203B.19 RECORDING APPLICATIONS.**

Upon accepting an application, the county auditor shall record in the statewide registration

system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, passport number, Minnesota driver's license number or state identification card number, or the last four digits of the voter's Social Security number, and whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to ~~absent voters described in section 203B.16. No later than 60 days after the general election, the county auditor shall report to the secretary of state~~ and the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

Sec. 43. Minnesota Statutes 2008, section 203B.21, subdivision 2, is amended to read:

Subd. 2. **Mailing of ballots; return.** Except as provided by section 203B.225, ballots and instructions for marking them, ballot envelopes, and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. The ballot envelope and return envelope shall be marked "Official Ballot," and shall contain sufficient postage to assure proper return delivery. The return envelope shall be addressed to comply with any method for return of absentee ballots as authorized under section 203B.08, subdivision 2. The requirements of this subdivision do not apply to ballots and related materials provided under section 203B.225.

Sec. 44. Minnesota Statutes 2008, section 203B.22, is amended to read:

**203B.22 MAILING TRANSMITTING BALLOTS.**

The county auditor shall mail transmit the appropriate ballots, as promptly as possible, to an absent voter whose application has been recorded under section 203B.19. If the county auditor determines that a voter is not eligible to vote at the primary but will be eligible to vote at the general election, only general election ballots shall be mailed transmitted. Only one set of ballots shall be mailed transmitted to any applicant for any election, except that the county auditor may mail transmit a replacement ballot to a voter whose ballot has been spoiled or lost in transit or whose mailing address has changed after the date on which the original application was submitted as confirmed by the county auditor. Ballots to be sent outside the United States shall be given priority in mailing transmission. A county auditor may make use of any special service provided by the United States government for the mailing transmission of voting materials under sections 203B.16 to 203B.27.

Sec. 45. Minnesota Statutes 2008, section 203B.225, subdivision 1, is amended to read:

Subdivision 1. **Transmitting ballot and certificate of voter eligibility.** A voter described in section 203B.16 may include in an application for absentee ballots a request that the ballots, instructions, and a certificate of voter eligibility meeting the requirements of section 203B.21, subdivision 3, be transmitted to the voter electronically. Upon receipt of a properly completed application requesting electronic transmission, the county auditor shall electronically transmit the requested materials to the voter. The county auditor is not required to provide return postage to voters to whom ballots are transmitted electronically.

Sec. 46. Minnesota Statutes 2008, section 203B.227, is amended to read:

**203B.227 WRITE-IN ABSENTEE BALLOT.**

A voter described in section 203B.16, subdivision 1, may use ~~a state write-in absentee ballot or~~ the federal write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.

Sec. 47. Minnesota Statutes 2008, section 203B.23, subdivision 2, is amended to read:

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

Except for federal write-in absentee ballots, the ballots from return envelopes marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box.

Federal write-in absentee ballots marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box after 5:00 p.m. on the fourth day before the election, unless the voter has submitted another absentee ballot with a later postmark that has been accepted by the board.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from absentee ballots may be made public before the close of voting on election day.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 48. Minnesota Statutes 2008, section 203B.24, subdivision 1, is amended to read:

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges members of the ballot board shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges members of the ballot board are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents; ~~and~~

(4) the voter is not known to have died; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the election judges members of the ballot board must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to ~~(4)~~ (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges Members of the ballot board must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 49. Minnesota Statutes 2008, section 203B.26, is amended to read:

**203B.26 SEPARATE RECORD.**

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and ~~provided to the election judges in the polling place on election day, along with the returned envelopes marked "accepted" by~~

~~the absentee ballot board. The content of the record must be in a form prescribed by the secretary of state. The election judges in the polling place must note on the record any envelopes that had been marked "accepted" by the absentee ballot board but were not counted. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day retained with the other election materials.~~

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

**Sec. 50. [203B.30] EARLY VOTING.**

(a) Except as provided in paragraph (b), any eligible voter may vote in person before election day in the manner provided in sections 203B.31 to 203B.35.

(b) Until January 1, 2014, this section does not apply to a town or school district election that is not held in conjunction with a statewide primary or statewide election.

**Sec. 51. [203B.31] TIME PERIOD FOR EARLY VOTING.**

Early voting must be available to any eligible voter as provided in section 203B.32 for every primary, general, and special election from 18 days before the election through the fourth day before the election.

**Sec. 52. [203B.32] HOURS FOR EARLY VOTING.**

Early voting must be available between the hours of 8:00 a.m. and 4:30 p.m. on each weekday during the time period provided in section 203B.31; from 8:00 a.m. to 8:00 p.m. on at least one of those days; and from 8:00 a.m. to noon on at least one Saturday.

**Sec. 53. [203B.33] LOCATIONS FOR EARLY VOTING.**

(a) Early voting must be made available at a polling place designated in the county auditor's office, at the municipal clerk's office in every municipality that has been delegated the responsibility to administer absentee voting as provided in section 203B.05, and at any other location designated by the county auditor or municipal clerk at least 90 days before the election. At least one voting station and one ballot marking device for disabled voters must be made available in each polling place.

(b) The county auditor must make at least one ballot box available in each polling place. As soon as practicable following the public accuracy test, the county auditor must make an electronic ballot counter available.

**Sec. 54. [203B.34] NOTICE TO VOTERS.**

The county auditor must prepare a notice to the voters of the days, times, and locations for early voting. This notice must be posted on the county's Web site and the Web site for each municipality in the county where an early voting location is designated for the election at least 14 days before the first day for early voting.

**Sec. 55. [203B.35] PROCEDURES FOR EARLY VOTING.**

Subdivision 1. **Voting procedure.** Each voter shall sign an early voting roster that must include the certification provided in section 204C.10. An individual who is not registered to vote must register in the manner provided in section 201.061, subdivision 3. After the voter has signed a roster, two staff of the county auditor or municipal clerk or two election judges must initial the appropriate ballot for the voter's precinct and provide it to the voter. The voter must mark the ballot and deposit it in either a precinct voting system or a sealed ballot box. A voter may not leave the polling place with the ballot.

Subd. 2. **Record of voting.** (a) The county auditor or municipal clerk must immediately record that a voter has voted early on the voter's record in the statewide voter registration system. After a voter's record has been marked to record that an individual has voted early, the individual must not be allowed to vote again at that election. Voters who are not preregistered at the voter's current address must be considered election day registrants.

(b) The early voting rosters must be marked no later than the start of voting on election day to indicate the voters who have cast a ballot at an early voting location. The rosters may be marked either:

- (1) by the municipal clerk before election day;
- (2) by the absentee ballot board before election day; or
- (3) by the election judges at the polling place on election day.

(c) A voter who has cast a ballot in person by early voting and deposited it in a ballot box or ballot counter must not be permitted to vote at the polling place on election day. An absentee ballot received from a voter who has cast a ballot in person by early voting must be rejected by the election judges.

Subd. 3. **Storage and counting of ballots.** Two staff of the county auditor or municipal clerk or two election judges of different major political parties must:

- (1) remove the ballots from the ballot box and seal and secure them at the end of each day on which early ballots were inserted into the ballot box; and
- (2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters who voted early.

After the polls have closed on election day, two staff of the county auditor or two election judges of different major political parties must count the early ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count is public. No vote totals from early ballots may be made public before the close of voting on election day.

Sec. 56. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, ~~except as otherwise provided for partisan offices in section 204D.10, subdivision 2, and for nonpartisan offices in section 204B.13, subdivision 4.~~

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

Sec. 57. Minnesota Statutes 2008, section 204B.04, subdivision 3, is amended to read:

Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office ~~except in the event of a vacancy in nomination as provided in section 204B.13.~~

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

Sec. 58. Minnesota Statutes 2008, section 204B.06, is amended by adding a subdivision to read:

**Subd. 1b. Address and telephone number.** (a) Except as provided in paragraph (d), an affidavit of candidacy must state the candidate's residence address and a telephone number where the candidate can be contacted. The form for the affidavit of candidacy and for the separate affidavit required under paragraph (c) must allow the candidate to specify that the candidate's address must be classified as private data.

(b) For an office whose residency requirement must be satisfied by the close of the filing period, a registered voter in this state may request in writing that the filing officer receiving the affidavit of candidacy review the address as provided in this paragraph, at any time up to one day after the last day for filing for office. If requested, the filing officer must determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking. If the filing officer determines that the address is not within the area represented by the office, the filing officer must immediately notify the candidate and the candidate's name must be removed from the ballot for that office. A determination made by a filing officer under this paragraph is subject to judicial review under section 204B.44.

(c) For an office whose residency requirement may be satisfied as of a date after filings close, a candidate who does not reside in the district at the time of filing must submit a separate affidavit stating the candidate's residence address and a telephone number where the candidate can be contacted. The affidavit must be submitted to the filing officer by the deadline for meeting the residency requirement.

(d) If the candidate specifies under paragraph (a) of this subdivision that the candidate's residence address is to be classified as private data, the candidate shall instead list the residence address on a separate sheet to be attached to the affidavit of candidacy and that may be reviewed by the filing officer as provided in this subdivision, but the residence address is otherwise classified as private data.

(e) The requirements of this subdivision do not apply to affidavits of candidacy for a candidate for: (1) judicial office; (2) the office of county attorney; or (3) county sheriff.

Sec. 59. Minnesota Statutes 2008, section 204B.07, subdivision 1, is amended to read:

Subdivision 1. **Form of petition.** A nominating petition may consist of one or more separate pages each of which shall state:

(a) the office sought;

(b) the candidate's name and residence address, including street and number if any; and

(c) the candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. ~~A candidate who files by nominating petition to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.~~

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

Sec. 60. Minnesota Statutes 2008, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. **Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filed at the state general election shall be filed not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions on or before the state primary day pursuant to section 204B.07. ~~Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13.~~ No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 61. Minnesota Statutes 2008, section 204B.09, subdivision 3, is amended to read:

Subd. 3. **Write-in candidates.** (a) A candidate for county, state, or federal office who wants write-in votes for the candidate to be counted must file a written request with the filing office for the office sought no later than the seventh day before the general election. The filing officer shall provide copies of the form to make the request.

(b) A candidate for president of the United States who files a request under this subdivision must include the name of a candidate for vice-president of the United States. The request must also include the name of at least one candidate for presidential elector. The total number of names of candidates for presidential elector on the request may not exceed the total number of electoral votes

to be cast by Minnesota in the presidential election.

(c) A candidate for governor who files a request under this subdivision must include the name of a candidate for lieutenant governor.

(d) A candidate who files a request under this subdivision must also pay the filing fee for that office or submit a petition in place of a filing fee, as provided in section 204B.11. The fee for a candidate for president of the United States is equal to that of the office of senator in Congress.

Sec. 62. Minnesota Statutes 2008, section 204B.11, subdivision 2, is amended to read:

Subd. 2. **Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 ~~or 204B.13, subdivision 4,~~ is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

(a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;

(b) for a congressional office, 1,000;

(c) for a county or legislative office, or for the office of district judge, 500; and

(d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

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

Sec. 63. Minnesota Statutes 2008, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

~~(a) (1) a major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a before election day; or~~

~~(b) a candidate for a nonpartisan office, for which one or two candidates filed, dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1.~~ (2) a major political party candidate who was nominated at a primary or the candidate's legal guardian files an affidavit of vacancy at least one day before the general election with the same official who received the affidavit of candidacy that states that:

(i) the candidate has a catastrophic illness that was diagnosed after the deadline for withdrawal; and

(ii) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought.

The affidavit must be accompanied by a certificate verifying that the candidate's illness meets the requirements of this clause, signed by at least two licensed physicians.

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

Sec. 64. Minnesota Statutes 2008, section 204B.13, subdivision 2, is amended to read:

Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision effectively remove that office from the ballot. Votes cast at the general election for that office are invalid and the office must be filled in a special election held in accordance with section 204D.17, except as provided by this section.

Except for the vacancy in nomination, all other candidates whose names would have appeared on the general election ballot for this race must appear on the special election ballot for this race. There must not be a primary to fill the vacancy in nomination.

A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all federal and state offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within seven 14 days after the vacancy in nomination occurs ~~or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election~~ but no later than seven days after the general election. The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

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

Sec. 65. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 7. **Date of special election.** The special election must be held on the second Tuesday in December.

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

Sec. 66. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 8. **Absentee voters.** The county auditor shall transmit an absentee ballot for the special election under this section to each applicant for an absentee ballot whose application for an absentee ballot for the preceding general election was recorded under section 203B.04 or 203B.17. If the vacancy in nomination is filled before the general election, the county auditor shall transmit the ballot no earlier than the general election and no later than five days after the general election. If the vacancy is filled after the general election, the county auditor must transmit the ballot no later than

five days after the vacancy is filled.

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

Sec. 67. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 9. **Appropriation.** The secretary of state shall reimburse the counties and municipalities for expenses incurred in the administration of a special election held under section 204B.13, subdivision 2. The following expenses are eligible for reimbursement: preparation and printing of ballots; postage for absentee ballots; publication of the sample ballot; preparation of polling places; preparation of electronic voting equipment; compensation for temporary staff or overtime payments; salaries of election judges; and compensation of county canvassing board members.

Within 60 days after the special election, the county auditor and municipal clerk shall submit to the secretary of state a request for payment accompanied by an itemized description of actual costs incurred for the special election. The secretary of state must not reimburse expenses unless the request for reimbursement has been submitted as required by this subdivision. The secretary of state shall complete the issuance of reimbursements to the counties and municipalities no later than 90 days after the special election.

When a special election is held under section 204B.13, subdivision 2, the secretary of state shall reimburse local election officials for costs incurred as provided in this subdivision. The amount necessary to make the payments under this subdivision is appropriated to the secretary of state from the general fund. No payment shall be made under this section until the secretary of state has given the commissioner of finance an estimate of the cost of the special election, the commissioner of finance has reported the estimate to the chairs and ranking minority members of the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives, and the commissioner of finance has approved the payment. After all reimbursements have been paid, the commissioner of finance shall report the actual cost to the chairs and ranking minority members of the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives.

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

Sec. 68. Minnesota Statutes 2008, section 204B.135, subdivision 1, is amended to read:

Subdivision 1. **Cities with wards.** Except as provided in this subdivision, a city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted in a year ending in one or two. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

In a city electing council members by wards in a year ending in one, if the legislature has not been redistricted by June 1 of that year, the ward boundaries must be reestablished no later than 14 days before the first day to file affidavits of candidacy for city council members. The ward boundaries may be modified after the legislature has been redistricted for the purpose of establishing precinct boundaries as provided in section 204B.14, subdivision 3, but no modification in ward boundaries may result in a change of the population of any ward of more than five percent, plus or minus.

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

Sec. 69. Minnesota Statutes 2008, section 204B.135, subdivision 3, is amended to read:

Subd. 3. **Voters rights.** (a) An eligible voter may apply to the district court for either a writ of mandamus requiring the redistricting of wards or local government election districts or to revise any plan adopted by the governing body responsible for redistricting of wards or local government election districts.

(b) If a city adopts a ward redistricting plan at least 19 weeks before the primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 18 weeks before the state primary election in the year ending in two, notwithstanding any charter provision. If a city adopts a ward redistricting plan less than 19 weeks before either the municipal primary in a year ending in one or before the state primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the that year ending in two must be filed with the district court no later than one week after the plan has been adopted, notwithstanding any charter provision.

(c) If a plan for redistricting of a local government election district is adopted at least 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 14 weeks before the state primary election in the year ending in two. If a plan for redistricting of a local government election district is adopted less than 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted.

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

Sec. 70. Minnesota Statutes 2008, section 204B.135, subdivision 4, is amended to read:

Subd. 4. **Special elections; limitations.** No municipality or school district may conduct a special election during the 19 weeks before the state primary election in the year ending in two, ~~except for special elections conducted on the date of the school district general election.~~ A school district special election required by any other law may be deferred until the date of the next school district general election, the state primary election, or the state general election.

Sec. 71. Minnesota Statutes 2008, section 204B.14, subdivision 2, is amended to read:

Subd. 2. **Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

- (1) each city ward; and
- (2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of ~~any~~ an odd-numbered year and no later than 14 weeks before the state primary in an even-numbered year:

- (1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;
- (2) for two contiguous precincts in the same municipality that have a combined total of fewer

than 500 registered voters;

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 200.02, subdivision 24, that are contained in the same county; or

(4) for noncontiguous precincts located in one or more counties.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of ~~any~~ an odd-numbered year and no later than 18 weeks before the state primary in an even-numbered year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 72. Minnesota Statutes 2008, section 204B.14, subdivision 3, is amended to read:

Subd. 3. **Boundary changes; prohibitions; exception.** Notwithstanding other law or charter provisions to the contrary, during the period from January 1 in any year ending in zero to the time when the legislature has been redistricted in a year ending in one or two, no changes may be made in the boundaries of any election precinct except as provided in this subdivision.

(a) If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

(b) A municipality or county may establish new election precincts lying entirely within the boundaries of any existing precinct and shall assign names to the new precincts which include the name of the former precinct.

(c) Precinct boundaries in a city electing council members by wards may be reestablished within 14 days after the adoption of ward boundaries in a year ending in one, as provided in section 204B.135, subdivision 1.

(d) Precinct boundaries must be reestablished within 60 days of the time when the legislature has been redistricted, or at least 19 weeks before the state primary election in a year ending in two, whichever comes first. The adoption of reestablished precinct boundaries becomes effective on the

date of the state primary election in the year ending in two.

Precincts must be arranged so that no precinct lies in more than one legislative or congressional district.

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

Sec. 73. Minnesota Statutes 2008, section 204B.14, subdivision 4, is amended to read:

Subd. 4. **Administrative boundary change procedure.** Any change in the boundary of an election precinct ~~shall~~ must be adopted at least ~~90~~ 60 days before the date of the next election and, for the state primary and general election, no later than ~~June 1~~ 14 weeks before the state primary in the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least ~~60~~ 42 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 74. Minnesota Statutes 2008, section 204B.14, is amended by adding a subdivision to read:

Subd. 4a. **Municipal boundary adjustment procedure.** A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective more than 21 days before a regularly scheduled election takes effect at the scheduled election.

A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective less than 21 days before a regularly scheduled election takes effect the day after the scheduled election.

Sec. 75. Minnesota Statutes 2008, section 204B.16, subdivision 1, is amended to read:

Subdivision 1. **Authority; location.** The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for a precinct in a city ~~or in a school district located in whole or in part in the metropolitan area defined by section 200.02, subdivision 24,~~ shall be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for a city pursuant to section 204B.14, subdivision 2, or a school district pursuant to section 205A.11. The polling place for a precinct

in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section 200.02, subdivision 24, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

**EFFECTIVE DATE.** This section is effective June 1, 2010.

Sec. 76. Minnesota Statutes 2008, section 204B.18, is amended to read:

**204B.18 POLLING PLACES; EQUIPMENT.**

Subdivision 1. **Booths; voting stations.** Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall permit the voter to vote privately and independently. Each polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252. Local officials must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. Local officials who purchased the equipment may charge the other local jurisdictions for the costs of programming the equipment, as well as a prorated cost of maintenance on the equipment. Any funds received for use of the accessible voting equipment must be treated as program income and deposited into the jurisdiction's Help America Vote Act account. All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. Information needed to enable voters to mark ballots quickly and correctly must be posted in each voting booth. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms. All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

Subd. 2. **Ballot boxes.** ~~Each polling place shall be provided with one ballot box for each kind of ballot to be cast at the election. The boxes shall be substantially the same color as the ballots to be deposited in them. Each box shall be of sufficient size and shall have a sufficient opening to receive and contain all the ballots likely to be deposited in it. When buff or goldenrod ballot boxes are required, a separate box must be provided for each school district for which ballots are to be cast at that polling place. The number and name of the school district must appear conspicuously on the top of each buff or goldenrod ballot box.~~

Sec. 77. Minnesota Statutes 2008, section 204B.21, subdivision 1, is amended to read:

Subdivision 1. **Appointment lists; duties of political parties and county auditor.** ~~On June 1~~ Within two weeks after the precinct caucuses in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

~~By June 15~~ Within four weeks after the precinct caucuses, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 78. Minnesota Statutes 2008, section 204B.22, subdivision 1, is amended to read:

Subdivision 1. **Minimum number required.** (a) A minimum of ~~three~~ four election judges shall be appointed for each precinct, except as provided by subdivision 2. In a combined polling place under section 204B.14, subdivision 2, at least one judge must be appointed from each municipality in the combined polling place, provided that not less than three judges shall be appointed for each combined polling place. The appointing authorities may appoint election judges for any precinct in addition to the number required by this subdivision including additional election judges to count ballots after voting has ended.

(b) An election judge may serve for all or part of election day, at the discretion of the appointing authority, as long as the minimum number of judges required is always present. The head election judge designated under section 204B.20 must serve for all of election day and be present in the polling place unless another election judge has been designated by the head election judge to perform the functions of the head election judge during any absence.

Sec. 79. Minnesota Statutes 2008, section 204B.22, subdivision 2, is amended to read:

Subd. 2. ~~Additional election judges in paper ballot precincts~~ **Exception.** ~~In precincts using paper ballots, a minimum of three election judges shall be appointed in precincts not using electronic voting equipment. One additional election judge shall be appointed for each 150 votes cast in that precinct at the last similar election. At each state primary or state general election in precincts using paper ballots and in which more than 300 votes were cast at the last similar election, additional election judges shall be appointed to count the ballots and complete the returns in place of the election board that served while voting was taking place.~~

Sec. 80. Minnesota Statutes 2008, section 204B.24, is amended to read:

**204B.24 ELECTION JUDGES; OATH.**

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate."

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other.

Sec. 81. Minnesota Statutes 2008, section 204B.27, subdivision 2, is amended to read:

Subd. 2. **Election law and instructions.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide

annotations to the secretary of state for this volume. On or before ~~July~~ August 1 of every ~~even-numbered~~ odd-numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. On or before July 1 of every even-numbered year, the secretary of state shall prepare and make an electronic copy available on the office's Web site. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Sec. 82. Minnesota Statutes 2008, section 204B.27, subdivision 3, is amended to read:

Subd. 3. **Instruction posters.** At least 25 days before every state primary election the secretary of state shall prepare and furnish to the county auditor of each county ~~in which paper ballots are used,~~ voter instruction posters printed in large type upon cards or heavy paper. The instruction posters must contain the information needed to enable the voters to cast their paper ballots quickly and correctly and indicate the types of assistance available for elderly and disabled voters. Two instruction posters shall be furnished for each precinct ~~in which paper ballots are used.~~ With the consent of the county auditor, the secretary of state may provide the posters in an electronic format.

Sec. 83. Minnesota Statutes 2008, section 204B.28, subdivision 2, is amended to read:

Subd. 2. **Election supplies; duties of county auditors and clerks.** (a) Except as otherwise provided for absentee ballots in section 204B.35, subdivision 4, the county auditor shall complete the preparation of the election materials for which the auditor is responsible at least four days before every state primary and state general election. At any time after all election materials are available from the county auditor but not later than four days before the election each municipal clerk shall secure from the county auditor:

~~(a)~~ (1) the forms that are required for the conduct of the election;

~~(b)~~ (2) any printed voter instruction materials furnished by the secretary of state;

~~(c)~~ (3) any other instructions for election officers; and

~~(d)~~ (4) a sufficient quantity of the official ballots, registration files, envelopes for ballot returns, and other supplies and materials required for each precinct in order to comply with the provisions of the Minnesota Election Law. The county auditor may furnish the election supplies to the municipal clerks in the same manner as the supplies are furnished to precincts in unorganized territory pursuant to section 204B.29, subdivision 1.

(b) The official in charge of elections in each municipality where an electronic voting system is used shall have the voting systems put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballots after the polls close. The container must be of sturdy material to protect the ballots from all reasonably foreseeable hazards.

Sec. 84. Minnesota Statutes 2008, section 204B.33, is amended to read:

#### **204B.33 NOTICE OF FILING.**

~~(a) Between June 1 and July 1 in each even-numbered year~~ At least 15 weeks before the state

primary, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices and post a notice of the offices that will be on the ballot on their Web site, if one is available.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

**Sec. 85. [204B.335] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

For state primary and general elections, the county auditor must enter the offices and questions to be voted on in the county and the list of candidates for each office into the election results reporting system provided by the secretary of state no later than 46 days before the election.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 86. Minnesota Statutes 2008, section 204B.35, subdivision 4, is amended to read:

Subd. 4. **Absentee ballots; preparation; delivery.** At least 45 days before a state primary or the state general election and at least 30 days before other elections, ballots necessary to fill applications of absentee voters shall be prepared and delivered ~~at least 30 days before the election~~ to the officials who administer the provisions of chapter 203B.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 87. Minnesota Statutes 2008, section 204B.44, is amended to read:

**204B.44 ERRORS AND OMISSIONS; REMEDY.**

(a) Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur:

~~(a)~~ (1) an error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot;

~~(b)~~ (2) any other error in preparing or printing any official ballot;

~~(c)~~ (3) failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination; or

~~(d)~~ (4) any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

(b) The petition shall describe the error, omission, or wrongful act and the correction sought by the petitioner. The petition shall be filed with any judge of the Supreme Court in the case of an election for state or federal office or any judge of the district court in that county in the case of an election for county, municipal, or school district office. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission, or wrongful act, and on any other party as required by the court. Upon receipt of the petition the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. The court shall issue its findings and a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

(c) An order issued under this section may not authorize the candidates in an election to determine whether an absentee ballot envelope was improperly rejected.

Sec. 88. Minnesota Statutes 2008, section 204B.45, subdivision 2, is amended to read:

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. Not more than 30 days nor later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk may ~~must~~ appoint election judges a ballot board to examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election within three days after receipt. The board may consist of staff trained as election judges, in which case the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days before the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

The ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the election judges, and deposited in the appropriate ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 89. Minnesota Statutes 2008, section 204B.46, is amended to read:

**204B.46 MAIL ELECTIONS; QUESTIONS.**

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. No earlier than ~~20 or~~ 30 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the return envelopes and mark them "Accepted" or "Rejected" within three days after receipt. The board may consist of staff trained as election judges, in which case the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days before the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

The ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the election judges, and deposited in the appropriate ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from ballots may be made public before the close of voting on election day.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 90. Minnesota Statutes 2008, section 204C.02, is amended to read:

**204C.02 APPLICATION.**

This chapter applies to all elections held in this state except as otherwise provided by law.

An individual who is unable to write the individual's name must sign election-related documents in the manner provided by section 645.44, subdivision 14. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 91. Minnesota Statutes 2008, section 204C.04, subdivision 1, is amended to read:

Subdivision 1. **Right to be absent.** Every employee who is eligible to vote in an election has the right to be absent from work exclusively for the purpose of voting ~~during the morning of~~ on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

Sec. 92. Minnesota Statutes 2008, section 204C.06, subdivision 1, is amended to read:

Subdivision 1. **Lingering near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote or a representative of the press or an academic institution who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. "Exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous questionnaire.

Sec. 93. Minnesota Statutes 2008, section 204C.07, subdivision 3a, is amended to read:

Subd. 3a. **Residence Registration requirement.** A challenger must be a ~~resident of this state registered voter as provided in section 201.054. An appointed challenger seeking admission to a polling place to serve in that capacity must prove their status as a resident of this state by presenting one of the documents listed in section 201.061, subdivision 3. Challengers need not prove residence in the precinct in which they seek to act as a challenger~~ sign a written statement under penalty of perjury affirming: (1) the challenger's status as a registered voter in this state; and (2) that the challenger has reviewed and agrees to comply with the requirements of this section, including, but not limited to, the standards of conduct for a polling place challenger.

Sec. 94. Minnesota Statutes 2008, section 204C.07, subdivision 4, is amended to read:

Subd. 4. **Restrictions on conduct.** An election judge may not be appointed as a challenger. The election judges shall permit challengers appointed pursuant to this section to be present in the polling place during the hours of voting and to remain there until the votes are counted and the results declared. ~~Ne~~ A challenger must comply with an order from a head election judge to leave a polling place for the remainder of the election day for failure to comply with the requirements of this section. A challenger shall not:

- (1) handle or inspect registration cards, files, or lists. Challengers shall not;
- (2) prepare in any manner any list of individuals who have or have not voted. They shall not;
- (3) attempt to influence voting in any manner. They shall not;
- (4) converse with a voter except to determine, in the presence of an election judge, whether the

voter is eligible to vote in the precinct;

- (5) use any electronic communication device inside the polling place; or
- (6) interfere with an election judge who is performing official duties.

Sec. 95. Minnesota Statutes 2008, section 204C.08, is amended to read:

**204C.08 OPENING OF POLLING PLACES.**

Subdivision 1. **Arrival; ballots.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns.

Subd. 1a. **Display of flag.** Upon their arrival at the polling place on the day of election, the election judges shall cause the national flag to be displayed on a suitable staff at the entrance to the polling place. The flag shall be displayed continuously during the hours of voting and the election judges shall attest to that fact by signing the flag certification statement on the precinct summary statement. The election judges shall receive no compensation for any time during which they intentionally fail to display the flag as required by this subdivision.

Subd. ~~1a.~~ **1b. Voter's Bill of Rights.** The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS

For all persons residing in this state who meet federal voting eligibility requirements:

- (1) You have the right to be absent from work for the purpose of voting ~~during the morning of~~ without reduction to your pay, personal leave, or vacation time on election day.
- (2) If you are in line at your polling place any time ~~between 7:00 a.m. and~~ before 8:00 p.m., you have the right to vote.
- (3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.
- (4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.
- (5) You have the right to request special assistance when voting.
- (6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.
- (7) You have the right to bring your minor children into the polling place and into the voting booth with you.
- (8) If you have been convicted of a felony but your felony sentence has expired (been completed)

or you have been discharged from your sentence, you have the right to vote.

(9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.

(10) You have the right to vote without anyone in the polling place trying to influence your vote.

(11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.

(12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.

(13) You have the right to take a sample ballot into the voting booth with you.

(14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Subd. 2. **Posting of voting instructions.** Before the hours for voting are scheduled to begin, the election judges shall post any official voter instruction posters furnished to them in a conspicuous location or locations in the polling place.

Subd. 2a. **Sample ballots.** A At least two sample ~~ballot~~ ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout election day. The sample ~~ballot~~ ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.

Subd. 3. **Locking of ballot ~~boxes~~ box.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot ~~boxes~~ box in the presence of the individuals assembled at the polling place, ~~turn the boxes upside down to demonstrate that it is empty them,~~ lock ~~them~~ it, and deliver the key to another election judge. Except as provided by this subdivision, the ~~boxes~~ box shall not be reopened ~~except to count the ballots until~~ after the hours for voting have ended and all voting has been concluded. The ~~boxes~~ box shall be kept in public view at all times during voting hours. After locking the ballot ~~boxes~~ box, the election judges shall proclaim that voting may begin, and shall post outside the polling place conspicuous written or printed notices of the time when voting is scheduled to end.

Two election judges of different major political parties may open the ballot box as needed to straighten the ballots or remove voted ballots to prevent the box from becoming full. The election judges shall not count or inspect the ballots.

If the election judges remove any ballots from the box, the election judges shall put the ballots into containers and seal them. The judges shall put any ballots taken from the ballot box's write-in compartment into containers separate from the other ballots and seal them. The judges shall label the ballot containers and secure them.

The judges shall note on the incident report that the ballot box was opened, the time the box was opened, and, if any ballots were removed, the number of any seals used to seal the ballot containers.

Subd. 4. **Ballot ~~boxes,~~ box boxcar seals.** The governing body of a municipality or school district by resolution may direct the municipal or school district clerk to furnish a boxcar seal for each ballot box in place of a lock and key. Each seal shall consist of a numbered ~~metal~~ strap with a self-locking

device securely attached to one end of the strap so that the other end may be inserted and securely locked in the seal. No two metal straps shall bear the same number.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 96. Minnesota Statutes 2008, section 204C.10, is amended to read:

**204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.**

(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: ". The polling place roster must state: "I certify that I have not already voted in this election. I certify that I am at least 18 years of age and a citizen of the United States; that I reside at the address shown and have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person in which the court order revokes my right to vote, have not been found by a court to be legally incompetent to vote, and that if convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and that I am registered and will be voting only in this precinct. I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both." The words "I have not already voted in this election" and "I understand that providing false information is a felony" must be in bold type.

(b) An individual voting early under section 203B.30 must sign a roster that meets the additional requirements of this paragraph. In addition to the content required under paragraph (a), the roster must also state: "I understand that after I have cast my ballot today, I cannot vote again in this election."

(c) All of the text contained within the quotation marks in paragraphs (a) and (b) must be in bold type in rosters provided to individuals voting under section 203B.30.

(d) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth. If the ballot board has not marked the roster in accordance with section 203B.12, subdivision 4a, clause (3), the election judge must review the supplemental list of those who voted by absentee ballot to ensure that the voter's name is not on the list. If a voter's name is on the list, the voter must not be allowed to sign the roster or to vote on election day.

(e) (e) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 97. Minnesota Statutes 2008, section 204C.12, subdivision 2, is amended to read:

Subd. 2. **Statement of grounds; oath.** ~~Before making a challenge, a challenger must be a resident of this state admitted to a polling place as provided in section 204C.07, subdivision 3a.~~ The secretary of state shall prepare a form that challengers must complete and sign when making a challenge. The form must include space to state the ground for the challenge, a statement that the challenge is based on the challenger's personal knowledge, and a statement that the challenge is made under oath. The form must include a space for the challenger's printed name, signature, telephone number, and address.

An election judge shall administer to the challenged individual the following oath:

"Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?"

The election judge shall then ask the challenged individual sufficient questions to test that individual's residence and right to vote.

Sec. 98. Minnesota Statutes 2008, section 204C.13, subdivision 2, is amended to read:

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking ~~and folding~~ the ballots, of using the electronic ballot marker, including assistive voting technology, of the option to insert the ballot into the electronic ballot marker to examine the votes before inserting it into the ballot counter, of inserting the ballot into automatic tabulating equipment that examines and counts votes, and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth ~~and~~ or, at the voter's discretion, the voter may choose to use another writing surface. The voter shall mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

Sec. 99. Minnesota Statutes 2008, section 204C.13, subdivision 3, is amended to read:

Subd. 3. **Marking ballots.** The voter shall mark each ballot in the following manner:

(a) ~~A mark (X) shall be placed in the square~~ The voter shall fill in the oval or connect the arrow opposite the printed name of each candidate for whom the individual desires to vote, and in the square before the "~~YES~~" "Yes" or "~~NO~~" "No" if the individual desires to vote for or against a question.

(b) The voter may write in other names on the lines provided under the printed names of the candidates, except that no names shall be written in on primary ballots.

(c) At a state primary an individual may vote for candidates of only one major political party on the partisan primary ballot. If a partisan primary ballot contains votes for the candidates of more than one major political party, the ballot is totally defective and no vote on the partisan section of the ballot shall be counted.

(d) An individual who spoils a ballot may return it to the election judges and receive another.

Sec. 100. Minnesota Statutes 2008, section 204C.13, subdivision 5, is amended to read:

Subd. 5. **Deposit of ballots in ballot boxes** box. The voter shall then withdraw from the voting

booth with the ballots and ~~hand them to the election judge in charge of the ballot boxes. That election judge shall~~ immediately deposit each ballot in the proper ballot box. Ballots that have not been initialed by the election judges as provided in section 204C.09, shall not be deposited in the ballot box.

Sec. 101. Minnesota Statutes 2008, section 204C.13, subdivision 6, is amended to read:

**Subd. 6. Challenge of voter; time limits; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter and the deposit of any received absentee ballots in the ballot boxes. The election judges shall determine the eligibility of any voter who is present in the polling place in the manner provided in section 204C.12, and if the voter is found to be not eligible to vote, shall place the ballots of that voter unopened among the spoiled ballots. ~~The election judges shall determine whether to receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections 203B.12, 203B.24, and 203B.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section 203B.12.~~ A violation of this subdivision by an election judge is a gross misdemeanor.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 102. Minnesota Statutes 2008, section 204C.17, is amended to read:

**204C.17 VOTING; SECRECY.**

Except as authorized by section 204C.15, a voter shall not reveal to anyone in the polling place the name of any candidate for whom the voter intends to vote or has voted. A voter shall not ask for or receive assistance in the marking of a ballot from anyone within the polling place except as authorized by section 204C.15. If a voter, after marking a ballot, shows it to anyone except as authorized by law or takes a picture of the voter's ballot, the election judges shall refuse to deposit the ballot in any ballot box and shall place it among the spoiled ballots. Unless the showing of the ballot was clearly intentional, the voter shall receive another ballot as provided in section 204C.13, subdivision 3, ~~elause~~ paragraph (d).

Sec. 103. **[204C.185] DUTIES OF ELECTION JUDGES.**

**Subdivision 1. Damaged or defective ballots.** If a ballot is damaged or defective so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate copy must be made of the damaged ballot in the presence of two judges not of the same major political party and must be substituted for the damaged ballot. Likewise, a duplicate ballot must be made of a defective ballot, which may not include the votes for the offices for which it is defective. Duplicate ballots must be clearly labeled "duplicate," indicate the precinct in which the corresponding damaged or defective ballot was cast, bear a serial number which must be recorded on the damaged or defective ballot, and be counted in lieu of the damaged or defective ballot.

**Subd. 2. Rejected ballots.** Whenever a ballot created by an electronic ballot marker certified by the secretary of state is rejected by an optical scan voting system, two election judges who are members of different major political parties shall transcribe the votes on the ballot rejected by the

optical scan voting system using the procedures in subdivision 1.

Sec. 104. Minnesota Statutes 2008, section 204C.19, subdivision 2, is amended to read:

Subd. 2. **Ballots; order of counting.** ~~Except as otherwise provided in this subdivision, the ballot boxes shall be opened. The votes must be counted, and the total declared one box at a time in the following order: the white box, the pink box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, the gray box, and then the other kinds of ballots voted at the election. If enough election judges are available to provide counting teams of four or more election judges for each box, more than one box may be opened and counted at the same time in the order the offices are listed on the ballot. The election judges on each counting team shall be evenly divided between the major political parties. The numbers entered on the summary sheet shall not be considered final until all the ballots in all the boxes have been counted and corrections have been made if ballots have been deposited in the wrong boxes.~~

Sec. 105. Minnesota Statutes 2008, section 204C.20, subdivision 1, is amended to read:

Subdivision 1. **Determination of proper number.** The election judges shall determine the number of ballots to be counted by adding the number of return envelopes from accepted absentee ballots to the number of signed voter's certificates, or to the number of names entered in the election register. ~~The election judges shall then remove all the ballots from the box. Without considering how the ballots are marked, the election judges shall ascertain that each ballot is separate and shall count them to determine whether the number of ballots in the box corresponds with the number of ballots to be counted.~~

Sec. 106. Minnesota Statutes 2008, section 204C.20, subdivision 2, is amended to read:

Subd. 2. **Excess ballots.** ~~If two or more ballots are found folded together like a single ballot, the election judges shall lay them aside until all the ballots in the box have been counted. If it is evident from the number of ballots to be counted that the ballots folded together were cast by one voter, the election judges shall preserve but not count them. If the number of ballots in one the ballot box exceeds the number to be counted, the election judges shall examine all the ballots in the box to ascertain that all are properly marked with the initials of the election judges. If any ballots are not properly marked with the initials of the election judges, the election judges shall preserve but not count them; however, if the number of ballots does not exceed the number to be counted, the absence of either or both sets of initials of the election judges does not, by itself, disqualify the vote from being counted and must not be the basis of a challenge in a recount. If there is still an excess of properly marked ballots, the election judges shall replace them in the box, and one election judge, without looking, shall withdraw from the box a number of ballots equal to the excess. The withdrawn ballots shall not be counted but shall be preserved as provided in subdivision 4.~~

Sec. 107. **[204C.205] COUNTING BALLOTS.**

In precincts in which automatic tabulating equipment is located in the polling place, as soon as the polls are closed the election judges shall secure the voting systems against further voting. A tabulation of ballots must be obtained from the automatic tabulating equipment after all damaged or defective ballots have been replaced. The tabulation, together with the returns of write-in and absentee votes and the precinct summary statements prepared in accordance with section 204C.24, constitute the official return of each precinct. Upon completion of the count, the returns are open to the public.

Sec. 108. **204C.206** COUNTING BALLOTS CENTRALLY.

Subdivision 1. **At the voting location.** In precincts in which automatic tabulating equipment is located in a central location, as soon as the polls are closed the election judges shall secure the voting systems against further voting. They shall then open the ballot box and count the number of ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the election register. If there is an excess, the judges shall seal the ballots in a ballot container and transport the container to the county auditor or municipal clerk, who shall process the ballots in the same manner as required in section 204C.20, subdivision 2, then enter the ballots into the ballot counter. The total numbers of voters must be entered on the forms provided.

Subd. 2. **Transportation of ballots.** The judges shall place all voted ballots, defective ballots, and damaged ballots in the container provided for transporting them to the counting center. The container must be sealed and delivered immediately to the counting center by two judges who are not of the same major political party. The judges shall also deliver to the counting center, in a suitable container, the unused ballots, and the spoiled ballot envelope.

Subd. 3. **Counting centers open; security.** Proceedings at the counting center are open to the public. They are under the direction of the official in charge of elections in each municipality and must be under the observation of at least two election judges who are not of the same major political party. Only persons employed and authorized for the purpose may touch any ballot, ballot container, or statement of absentee ballot results.

Subd. 4. **Preliminary tabulation.** When the ballots arrive at a counting center where votes are counted by automatic tabulating equipment that is programmed to tabulate the votes from multiple precincts, the ballots must be given to the counting center election judges and counted by the automatic tabulating equipment. The results of this preliminary tabulation may be made available to the public if the tabulation is clearly identified as unofficial.

After any preliminary tabulation has been made, any ballots that could not be read by the tabulator, or would not go through the tabulator, must be returned to the counting center election judges who shall prepare replacements, if necessary, as provided in section 204C.185.

Subd. 5. **Final tabulation.** A final tabulation of ballots must be obtained from the automatic tabulating equipment after all damaged or defective ballots have been replaced. The final tabulation, together with the returns of write-in and absentee votes and the precinct summary statements prepared in accordance with section 204C.24, constitute the official return of each precinct. Upon completion of the count the returns are open to the public.

Sec. 109. Minnesota Statutes 2008, section 204C.21, is amended to read:

**204C.21** HAND COUNTING BALLOTS; PILING SYSTEM.

Subdivision 1. **General.** Ballots that are counted by hand shall be counted as prescribed by this section.

Subd. 1a. **Method.** The election judges shall remove all the ballots from the box. Without considering how the ballots are marked, the election judges shall ascertain that each ballot is separate and shall count them to determine whether the number of ballots in the box corresponds with the number of ballots to be counted. If two or more ballots are found folded together like a single ballot, the election judges shall lay them aside until all the ballots in the box have been

counted. If it is evident from the number of ballots to be counted that the ballots folded together were cast by one voter, the election judges shall preserve but not count them. The election judges shall take all the ballots of the same kind and count the votes cast for each office or question, beginning with the first office or question on the ballot. They shall make one pile of the ballots for each candidate who received votes for that office, or one pile for the "Yes" votes and one pile for the "No" votes on a question. They shall make a pile of totally defective ballots and a pile of totally blank ballots. They shall make a pile of ballots that are not totally defective but are defective with respect to the office or question being counted and a pile of ballots that are not totally blank but are blank with respect to the office or question being counted. After the separation into piles, the election judges shall examine each pile and remove and place in the proper pile any ballots that are found in the wrong pile. The election judges shall count the totally blank and totally defective ballots and set them aside until the counting is over for that ballot. The election judges ~~may~~ must pile ballots crosswise in groups of 25 in the same pile to facilitate counting. When their counts agree, the election judges shall announce the number of ballots in each pile, and shall write the number in the proper place on the summary statements.

The election judges shall then return all the counted ballots, and all the partially defective or partially blank ballots, to the original pile to be separated and counted in the same manner for the next office or question.

Subd. 2. **More than one candidate to be elected; piling.** Where more than one candidate is to be elected to an office, the votes for that office shall be counted and canvassed in the manner provided in subdivision ~~4~~ 1a as far as practicable.

Subd. 2a. **Defective ballots.** A ballot that is defective to the extent that the election judges are unable to determine the voter's intent shall be marked on the back "Defective" if it is totally defective or "Defective as to .....,," naming the office or question if it is defective only in part.

Subd. 3. **Primary.** At a primary the election judges shall first separate the ~~partisan~~ ballots by major political party and then count the votes for each office as provided in subdivision ~~4~~ 1a. The nonpartisan  races on the primary ballots shall be counted separately after the partisan races on the primary ballots have been counted.

Sec. 110. Minnesota Statutes 2008, section 204C.22, subdivision 3, is amended to read:

Subd. 3. **Votes for too many candidates.** If a voter places a mark (X) fills in the oval or completes the arrow beside the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office, but the rest of the ballot shall be counted if possible. At a primary, if a voter has not indicated a party preference and places a mark (X) fills in the oval or completes the arrow beside the names of candidates of more than one party on the partisan section of the ballot, that section of the ballot is totally defective and no votes on it for partisan offices shall be counted. If a voter has indicated a party preference at a primary, only votes cast for candidates of that party shall be counted.

Sec. 111. Minnesota Statutes 2008, section 204C.22, subdivision 4, is amended to read:

Subd. 4. **Name written in proper place.** If a voter has written the name of an individual in the proper place on a general or special election ballot a vote shall be counted for that individual whether or not the voter makes a mark (X) in the square fills in the oval or completes the arrow

opposite the blank.

Sec. 112. Minnesota Statutes 2008, section 204C.22, subdivision 6, is amended to read:

Subd. 6. **Mark out of place.** If a mark ~~(X)~~ is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted.

Sec. 113. Minnesota Statutes 2008, section 204C.22, subdivision 7, is amended to read:

Subd. 7. **All written names or marks counted up to limit.** If a number of individuals are to be elected to the same office, the election judges shall count all names written in and all printed names with ~~(X) marks in squares~~ the oval filled in or the arrow completed opposite them, not exceeding the whole number to be elected. When fewer names than the number to be elected are marked with an ~~(X) oval filled in or an arrow completed~~ or a name written in, only the marked or written in names shall be counted. When more names than the number to be elected are marked or written in, the ballot is defective with respect to that office and no vote shall be counted for that office.

Sec. 114. Minnesota Statutes 2008, section 204C.22, subdivision 10, is amended to read:

Subd. 10. **Different marks.** If a voter uniformly uses a mark ~~other than (X)~~ which clearly indicates an intent mark a name or to mark yes or no on a question, and the voter does not use ~~(X)~~ the more standard mark anywhere else on the ballot, a vote shall be counted for each candidate or response to a question marked. If a voter uses two or more distinct marks, such as (X) and some other mark, a vote shall be counted for each candidate or response to a question marked, unless the ballot is marked by distinguishing characteristics that make the entire ballot defective as provided in subdivision 13.

Sec. 115. Minnesota Statutes 2008, section 204C.22, subdivision 13, is amended to read:

Subd. 13. **Identifying ballot.** If a ballot is marked ~~by distinguishing characteristics in a manner making it evident that the voter intended to identify the ballot with a voter's signature, an identification number, or a name written completely outside of the space allotted for the names of write-in candidates,~~ the entire ballot is defective.

Sec. 116. Minnesota Statutes 2008, section 204C.24, subdivision 1, is amended to read:

Subdivision 1. **Information requirements.** Precinct summary statements shall be submitted by the election judges in every precinct. For all elections, the election judges shall complete three or more copies of the summary statements, and each copy shall contain the following information for each kind of ballot:

(a) the number of votes each candidate received or the number of yes and no votes on each question, the number of undervotes or partially blank ballots, and the number of overvotes or partially defective ballots with respect to each office or question;

(b) the number of totally blank ballots, the number of totally defective ballots, the number of spoiled ballots, and the number of unused ballots;

(c) the number of individuals who voted at the election in the precinct;

(d) the number of voters registering on election day in that precinct; and

(e) the signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly ~~filed, checked, and~~ counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections.

Sec. 117. Minnesota Statutes 2008, section 204C.25, is amended to read:

**204C.25 DISPOSITION OF BALLOTS.**

After the count and the summary statements have been completed, in the presence of all the election judges, the counted, defective, and blank ballots shall be placed in envelopes ~~marked or printed to distinguish the color of the ballots contained,~~ and the envelopes shall be sealed. The election judges shall sign each envelope over the sealed part so that the envelope cannot be opened without disturbing the continuity of the signatures. The number ~~and kind~~ of ballots in each envelope, the name of the town or city, and the name of the precinct shall be plainly written upon the envelopes. The number and name of the district must be plainly written on envelopes containing school district ballots. The spoiled ballots shall be placed in separate envelopes, sealed, and returned with the unused ballots to the county auditor or municipal or school district clerk from whom they were received.

Sec. 118. Minnesota Statutes 2008, section 204C.26, is amended to read:

**204C.26 SUMMARY STATEMENTS AND ENVELOPES FOR BALLOT RETURNS;  
ELECTION OFFICIALS TO FURNISH.**

Subdivision 1. **Summary statements.** For state elections in jurisdictions in which the ballots are counted by hand, ~~each official responsible for printing ballots~~ the county auditor shall furnish three or more blank summary statement forms for the returns of those ballots for each precinct. At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections. The blank summary statement forms shall be furnished by the same official, at the same time, and in the same manner as the ballots. ~~The county auditor shall furnish blank summary statement forms containing separate space for the summary statement of the returns of the white ballot and the summary statement of the returns for the state pink ballot.~~

Subd. 2. **Summary statements; contents.** The blank summary statement forms furnished to each precinct shall identify the precinct, ward number if any, city, school district if applicable, or town, date, and kind of election and, under appropriate headings ~~identifying each color ballot,~~ shall contain spaces for the election judges to enter the information required by section 204C.24, subdivision 1.

Each blank summary statement form shall also contain a certificate to be signed by the election judges stating that the national flag was displayed on a suitable staff during voting hours; that all of the ballots cast were properly ~~filed, checked, and~~ counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

Subd. 3. **Secretary of state.** ~~On or before July 1~~ No later than ten weeks before the state primary of each even-numbered year, the secretary of state shall prescribe the form for summary statements

of election returns and the methods by which returns for the state primary and state general election shall be recorded by precinct, county, and state election officials. Each county auditor and municipal or school district clerk required to furnish summary statements shall prepare them in the manner prescribed by the secretary of state. The summary statement of the primary returns shall be in the same form as the summary statement of the general election returns except that a separate part of the summary statement shall be provided for the partisan races on the primary ballot and a separate part for the nonpartisan races on the primary ballot.

Subd. 4. **Envelopes for counted ballots.** Each official responsible for printing ballots shall also furnish envelopes to contain those ballots after they have been counted. The envelopes shall be made of heavy paper, ~~printed or marked to distinguish the color of the ballots to be contained in them.~~ They shall be of convenient size to hold the ballots and shall be furnished at the same time and in the same manner as the ballots.

Sec. 119. Minnesota Statutes 2008, section 204C.27, is amended to read:

**204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS.**

Subdivision 1. **Election supplies.** One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled ~~white, pink, canary, and gray~~ ballots; and the envelopes containing the ~~white, pink, canary, and gray~~ voted ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled ~~municipal and school district~~ ballots, ~~the envelopes containing municipal and school district~~ ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting. The municipal or school district clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.

Subd. 2. **Rejected absentee ballots.** All absentee ballots that were rejected and their accompanying absentee ballot applications must be delivered to the county auditor within 48 hours after the end of the hours for voting.

Sec. 120. Minnesota Statutes 2008, section 204C.28, subdivision 3, is amended to read:

Subd. 3. **School district returns and materials.** At a school district election held in conjunction with a state election, the county auditor or municipal clerk shall deliver the summary statements of the school district election returns, ~~all unused and spoiled school district ballots, and the envelope containing the school district ballots~~ from each precinct to the clerk of the appropriate school district within 48 hours after the polls close.

Sec. 121. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 3. **Review of rejected absentee ballots.** Before the meeting of the county canvassing board to canvass the results of the state general election, the county auditor must review any absentee ballots that were marked rejected to determine whether any were rejected in error. If the county canvassing board agrees that a ballot was rejected in error, the board must publicly open the return and ballot envelopes and initial and count the ballot to include the votes in all races in the results canvassed by the board. The county canvassing board must protect the privacy of voters' choices to

the extent practicable.

Sec. 122. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 4. **Election results reporting; state primary and general elections.** For state primary and general elections, the county auditor shall enter the votes in each precinct for the questions and offices voted on into the election results reporting system provided by the secretary of state.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 123. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office ~~on or before the seventh day~~ between the third and tenth days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) the number of individuals voting at the election in the county and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, ~~including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;~~
- (d) the number of votes counted for and against a proposed change of county lines or county seat; and
- (e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or federal county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit ~~one of the~~ a certified copies copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Sec. 124. Minnesota Statutes 2008, section 204C.33, subdivision 3, is amended to read:

Subd. 3. **State canvass.** The State Canvassing Board shall meet at the secretary of state's office on the ~~second~~ third Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

- (a) the number of individuals voting in the state and in each county;
- (b) the number of votes received by each of the candidates, specifying the counties in which they were cast; and
- (c) the number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast.

All members of the State Canvassing Board shall sign the report and certify its correctness. The State Canvassing Board shall declare the result within three days after completing the canvass.

Sec. 125. Minnesota Statutes 2008, section 204C.35, subdivision 1, is amended to read:

Subdivision 1. **Automatic Required recounts.** (a) In a state primary when the difference between the votes cast for the candidates for nomination to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office:

(1) is less than ~~one-half~~ one-quarter of one percent of the total number of votes counted for that nomination; or

(2) is ten votes or less and the total number of votes cast for the nomination is 400 votes or less;

and the difference determines the nomination, the canvassing board with responsibility for declaring the results for that office shall manually recount the vote upon receiving a written request from the candidate whose nomination is in question. Immediately following the canvassing board meeting of the board that has responsibility for canvassing the results of the nomination, the filing officer must notify the candidate that the candidate has the option to request a recount of the votes at no cost to the candidate. This written request must be received by the filing officer during the time for notice of contest of the primary for which a recount is being sought.

(b) In a state general election when the difference between the votes of a candidate who would otherwise be declared elected to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office and the votes of any other candidate for that office:

(1) is less than ~~one-half~~ one-quarter of one percent of the total number of votes counted for that office; or

(2) is ten votes or less if the total number of votes cast for the office is 400 votes or less,

the canvassing board shall manually recount the votes upon receiving a written request from the candidate whose election is in question. Immediately following the canvassing board meeting of the board that has responsibility for canvassing the results of the general election, the filing officer must notify the candidate that the candidate has the option to request a recount of the votes at no

cost to the candidate. This written request must be received by the filing officer during the time for notice of contest of the election for which a recount is being sought.

(c) A recount must not delay any other part of the canvass. The results of the recount must be certified by the canvassing board as soon as possible.

(d) Time for notice of a contest for an office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the canvassing board.

~~(e) A losing candidate may waive a recount required pursuant to this section by filing a written notice of waiver with the canvassing board.~~

Sec. 126. Minnesota Statutes 2008, section 204C.35, subdivision 2, is amended to read:

Subd. 2. **Discretionary candidate recount.** (a) A losing candidate whose name was on the ballot for nomination or election to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office may request a recount in a manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by ~~this section~~ subdivision 1. The votes shall be manually recounted as provided in this section if the candidate files a request during the time for filing notice of contest of the primary or election for which a recount is sought.

(b) The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. The requesting candidate is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; ~~the costs of computer operation, preparation of ballot counting equipment,~~ necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

(c) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list, the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).

(d) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.

(e) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

Sec. 127. Minnesota Statutes 2008, section 204C.35, is amended by adding a subdivision to read:

Subd. 4. **Filing officer.** For the purposes of this section, the secretary of state is the filing officer for candidates for all federal offices and for state offices voted on in more than one county. The county auditor is the filing officer for state offices voted on in only one county.

Sec. 128. Minnesota Statutes 2008, section 204C.36, subdivision 1, is amended to read:

Subdivision 1. **Required recounts.** (a) Except as provided in paragraph (b) and (c), a losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for the nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is less than ~~one-half~~ one-quarter of one percent of the total votes counted for that office. In case of offices where two or more seats are being filled from among all the candidates for the office, the ~~one-half~~ one-quarter of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

(b) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for nomination or election to that office if the difference between the votes cast for that candidate and for a winning candidate for nomination or election is less than one-half of one percent of the total votes counted for that office, and the total number of votes cast for the nomination or election of all candidates is more than 400 but less than 25,000. In cases of offices where two or more seats are being filled from among all the candidates for the office, the one-half of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

(c) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is ten votes or less, and the total number of votes cast for the nomination or election of all candidates is no more than 400. In cases of offices where two or more seats are being filled from among all the candidates for the office, the ten vote difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

~~(e)~~ (d) Candidates for county offices shall file a written request for the recount with the county auditor. Candidates for municipal or school district offices shall file a written request with the municipal or school district clerk as appropriate. All requests shall be filed during the time for notice of contest of the primary or election for which a recount is sought.

~~(d)~~ (e) Upon receipt of a request made pursuant to this section, the county auditor shall recount the votes for a county office at the expense of the county, the governing body of the municipality shall recount the votes for a municipal office at the expense of the municipality, and the school board of the school district shall recount the votes for a school district office at the expense of the school district.

Sec. 129. Minnesota Statutes 2008, section 204C.36, subdivision 3, is amended to read:

Subd. 3. **Discretionary ballot question recounts.** A recount may be conducted for a ballot question when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1. A recount may be requested by any person eligible to vote on the ballot question. A written request for a recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. Upon receipt of a written request when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1, the county auditor shall recount the votes for a county question at the expense of the county, the governing body of the municipality shall recount the votes for a municipal question at the expense of the municipality,

and the school board of the school district shall recount the votes for a school district question at the expense of the school district. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, petition, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested.

Sec. 130. Minnesota Statutes 2008, section 204C.36, subdivision 4, is amended to read:

Subd. 4. **Expenses.** In the case of a question, a person, or a candidate requesting a discretionary recount, is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; ~~the costs of computer operation, preparation of ballot counting equipment,~~ necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

Sec. 131. **[204C.363] CANDIDATE REPRESENTATIVES.**

Subdivision 1. **Requirements of representatives.** Individuals acting as candidate representatives in a recount must be registered to vote in this state, must provide written authorization from the candidate to the recount official before being allowed to challenge a ballot, and may not challenge a ballot until they have successfully completed training provided by the recount official. Only one representative per candidate per precinct being recounted simultaneously is allowed in the area of the room in which the recount is taking place.

Subd. 2. **Obstructing recount; violations; penalty.** The recount official may instruct any candidate or candidate's representative who obstructs or interferes with the recount to leave the room in which the recount is taking place. Any candidate or candidate's representative who obstructs or interferes with the conduct of a recount or who violates any provision of this section is guilty of a petty misdemeanor.

Sec. 132. Minnesota Statutes 2008, section 204C.37, is amended to read:

**204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.**

~~Two copies~~ A copy of the ~~reports~~ report required by sections 204C.32, subdivision 1, and 204C.33, subdivision 1, shall be certified under the official seal of the county auditor. Each The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words "Election Returns" endorsed on the envelope. The copy of the canvassing board report ~~not sent by express mail~~ and the precinct summary statements must be ~~mailed~~ sent by express mail or delivered to the secretary of state. If ~~neither~~ the copy is not received by the secretary of state within ten days following the applicable election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

Sec. 133. Minnesota Statutes 2008, section 204D.03, subdivision 1, is amended to read:

Subdivision 1. **State primary.** The state primary shall be held on the ~~first~~ second Tuesday ~~after~~

~~the second Monday in September~~ June in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 134. Minnesota Statutes 2008, section 204D.03, subdivision 3, is amended to read:

Subd. 3. **Exception; certain partisan candidates.** ~~(a) If no more than one candidate files for nomination by a major political party for a partisan office, the candidate who filed must be declared the nominee upon the close of filing. If every candidate for a partisan office has been declared the nominee upon the close of filing, the office must be omitted from the state primary ballot. If all offices, both partisan and nonpartisan, have been omitted from the state primary ballot in a municipality or county, the governing body of the municipality or county may decide that the state primary will not be conducted in that municipality or county.~~

~~(b)~~ Within 15 days after the close of filing, each municipal clerk or county auditor whose governing body has decided in accordance with section 204D.08, subdivision 4, not to conduct the state primary shall post notice that the offices have been so omitted and the state primary canceled and shall send a copy of the notice to the secretary of state.

Sec. 135. Minnesota Statutes 2008, section 204D.04, subdivision 2, is amended to read:

Subd. 2. **Instructions to printer; printer's bond.** (a) The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding \$1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

Sec. 136. **[204D.045] BALLOTS; FORM.**

Subdivision 1. **Type.** All ballots must be printed with black ink on white paper of sufficient thickness to prevent the printing from being discernible from the back, except that marks not to be read by the automatic tabulating equipment may be printed in another color ink. All ballots must be printed in easily readable type with suitable lines dividing candidates, offices, instructions, and other matter printed on ballots.

Subd. 2. **Titles.** On the top of all ballots must be printed the words "Official Ballot," the date of the election, and lines for the initials of at least two election judges. The instructions must read:

"To vote, completely fill in the oval(s) next to your choice(s) like this:" with the picture of a

completed oval; or "To vote, complete the arrow(s) pointing to your choice(s) like this:" with the picture of a completed arrow. Additional instructions must include the following statement: "If you make a mistake, ask for a new ballot." Directly underneath the official title of each office must be printed the words "Vote for one" or "Vote for up to ..." (any greater number to be elected).

Subd. 3. **Candidates and offices.** The name of each candidate must be printed at a right angle to the length of the ballot. The name of each candidate must be printed in upper and lower case letters. Candidates' names may be set in as large type as the length of the majority of names on the ballot permits. The remaining candidates' names may be set in smaller sizes of type as the length of each name requires, in order to fit the available space on the ballot. At a general election, the name of the political party or the political principle of each candidate for partisan office must be printed below the name of the candidate. The name of a political party or a political principle must be printed in capital and lowercase letters of the same type. At a general election, blank lines containing the words "write-in, if any" must be printed below the name of the last candidate for each office, or below the title of the office if no candidate has filed for that office, so that a voter may write in the names of individuals whose names are not on the ballot. One blank line must be printed for each officer of that kind to be elected. At a primary, no blank lines may be provided for writing in the names of individuals whose names do not appear on the primary ballot.

In a column, and on a line with the names of the candidates and the blank lines, there must be placed ovals or arrows, each oval or arrow to be of the same size, located as close as possible to the name of the candidate or the words yes or no, in which the voter may designate a vote by completely filling in the oval or connecting the arrow.

Subd. 4. **Question; form of ballot.** When a question is to be submitted to a vote, a concise statement of the nature of the question must be printed on the ballot. The words, "Yes" and "No" must be printed, with an oval or arrow next to each word so that the voter may indicate either a negative or affirmative vote.

Subd. 5. **Judicial candidates.** The official ballot must contain the names of all candidates for each judicial office and must state the number of those candidates for whom a voter may vote. Each seat for an associate justice, associate judge, or judge of the district court must be numbered.

The words "Supreme Court," "Court of Appeals," and "(number) District Court" must be printed above the respective judicial office groups on the ballot. The title of each judicial office must be printed on the official primary and general election ballot as follows:

(a) In the case of the Supreme Court:

"Chief Justice";

"Associate Justice (number)";

(b) In the case of the Court of Appeals:

"Judge (number)"; or

(c) In the case of the District Court:

"Judge (number)."

Subd. 6. **Designation of incumbent; judicial offices.** If a chief justice, associate justice, or judge

is a candidate to succeed again, the word "Incumbent" must be printed after or below that judge's name as a candidate.

Sec. 137. **[204D.046] NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.**

When the similarity of surnames of two or more candidates for the same office at the same election may cause confusion to voters because the candidates also have similar first names, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence, or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

Sec. 138. **[204D.047] SUBSTITUTE BALLOTS.**

If a sufficient number of official ballots are not delivered or if the official ballots are stolen or destroyed and a sufficient number of official ballots cannot be procured, the official in charge of preparing the official ballots shall prepare substitute ballots in the form prescribed by this section. The substitute ballots must be prepared in the same form as official ballots as far as practicable. The word "Substitute" must be printed in brackets immediately above the words "Official Ballot." When the substitute ballots are delivered to the municipal clerks or election judges they must be accompanied by an initialed affidavit of the officer preparing them. The affidavit must state that the substitute ballots have been prepared and furnished in the manner prescribed by this section and must state the reason why sufficient official ballots were not ready for delivery. The election judges shall include this affidavit with the election returns from that precinct.

Sec. 139. **[204D.048] PAPER COLOR FOR SAMPLE BALLOTS; PENALTY.**

No sample ballot may be printed on white paper except when appearing in a newspaper as news matter. A violation of this section is a misdemeanor.

Sec. 140. Minnesota Statutes 2008, section 204D.05, subdivision 3, is amended to read:

Subd. 3. **County auditor to prepare.** The county auditor of each county shall prepare the state ~~partisan~~ primary ballot and ~~the state and county nonpartisan primary ballot~~ provide all sample ballots, precinct summary statements, printed forms, and other necessary supplies.

Sec. 141. Minnesota Statutes 2008, section 204D.07, is amended to read:

**204D.07 PLACING NAMES ON BALLOTS.**

Subdivision 1. **Duties of county auditor.** Except as provided in subdivisions 2 and 3, the county auditor shall list in the appropriate place on the ~~appropriate~~ state primary ballot the name of each candidate who has properly filed an affidavit of candidacy with the auditor and of each candidate certified by the secretary of state pursuant to section 204D.06.

Subd. 2. **Exception; petition candidates.** The name of a candidate nominated by petition shall not be placed on ~~any~~ the state primary ballot.

Subd. 3. **Exception; certain nonpartisan candidate.** If not more than twice the number of individuals to be elected to a nonpartisan office file for the nomination, their names and the name of the office shall be omitted from the state ~~and county nonpartisan~~ primary ballot and the candidates who filed shall be the nominees.

Sec. 142. Minnesota Statutes 2008, section 204D.08, is amended to read:

**204D.08 STATE PRIMARY BALLOTS.**

Subdivision 1. **Form.** Except as provided in this section, state primary ballots ~~shall~~ must be printed in the same manner as state general election ballots as far as practicable. A sufficient number ~~shall~~ must be printed for each precinct and ward in the state.

The secretary of state shall adopt rules for the format and preparation of the state primary ballot.

Subd. 1a. **Heading; voter instructions; partisan and nonpartisan sections.** The state primary ballot must be headed by the words "State Primary Ballot." If a primary ballot contains both a partisan and a nonpartisan section, the instructions to voters must include a statement that reads substantially as follows: "This ballot contains a partisan and a nonpartisan section. On the partisan section, you are only allowed to vote for candidates of one political party." If only partisan races are listed on the ballot, above the party names, the following statement must be printed. "You are only allowed to vote for the candidates of one political party in a primary." If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: "Additional political parties are printed on the other side of this ballot. Vote for one political party only." At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: "Continue voting in the nonpartisan section."

Subd. 2. **Blank lines prohibited.** At a primary election, no blank lines shall be provided for writing in the names of individuals whose names do not appear on the primary ballot.

Subd. 3. **~~Rotation~~ Alternation of names.** On state primary ballots the name of each candidate for nomination to a partisan or nonpartisan office shall be ~~rotated~~ alternated with the names of the other candidates for nomination to that office in various precincts so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in that group of candidates. However, the arrangement of candidates' names must be the same on all ballots used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the county auditor shall determine by lot the alternation of names. If the number of candidates for an office is equal to or less than the number to be elected, no ~~rotation~~ alternation of candidate names is required and the official preparing the ballot shall determine the position of the candidates by lot.

Subd. 4. **State partisan primary ballot; party columns.** ~~The state partisan primary ballot shall be headed by the words "State Partisan Primary Ballot." The ballot shall be printed on white paper. There must be at least three vertical columns on the ballot and each major political party shall have a separate column headed by the words "..... Party," giving the party name. Above the party names, the following statement shall be printed. More than one column may be used for the same office or party.~~

~~"Minnesota Election Law permits you to vote for the candidates of only one political party in a state partisan primary election."~~

If there are only two major political parties to be listed on the ballot, one party must occupy the left-hand column, the other party must occupy the right-hand column, and the center column must contain the following statement:

"Do not vote for candidates of more than one party."

The names of the candidates seeking the nomination of each major political party shall be listed in that party's column. If only one individual files an affidavit of candidacy seeking the nomination of a major political party for an office, the name of that individual shall be placed on the state ~~partisan~~ primary ballot at the appropriate location in that party's column.

~~In each column, the candidates for senator in Congress shall be listed first, candidates for representative in Congress second, candidates for state senator third, candidates for state representative fourth and then candidates for state office in the order specified by the secretary of state.~~

If no more than one candidate files for nomination by a major political party for a partisan office, the candidate who filed must be declared the nominee upon the close of filing. If every candidate for a partisan office has been declared the nominee upon the close of filing, the office must be omitted from the state primary ballot. If all offices, both partisan and nonpartisan, have been omitted from the state primary ballot in a municipality or county, the governing body of the municipality or county may decide that the state primary will not be conducted in that municipality or county.

The party columns shall be substantially the same in width, type, and appearance. The columns shall be separated by a ~~12-point~~ solid line.

Subd. 5. **Party columns; arrangement.** The names of candidates for nomination of the major political party that received the smallest average vote at the last state general election must be placed in the first column on the left side of the ballot. The names of candidates for nomination of the major political party that received the next smallest average vote at the last state general election must be placed in the second column, and so on. The average vote shall be computed in the manner provided in section 204D.13, subdivision 2.

Subd. 6. ~~**State and county Nonpartisan primary ballot section.** The state and county nonpartisan primary ballot shall be headed "State and County Nonpartisan Primary Ballot." It shall be printed on canary paper. The names of candidates for nomination to the Supreme Court, Court of Appeals, district court, and all county offices shall be placed on this ballot.~~

No candidate whose name is placed on the state and county nonpartisan primary ballot section shall be designated or identified as the candidate of any political party or in any other manner except as expressly provided by law.

Sec. 143. Minnesota Statutes 2008, section 204D.09, subdivision 2, is amended to read:

Subd. 2. **Sample ballot.** At least two weeks before the state primary the county auditor shall prepare a sample state ~~partisan~~ primary ballot and a sample ~~state and county nonpartisan primary ballot~~ for public inspection. The names of all of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged ~~alphabetically according to the surname~~ in the base alternation as determined by section 204D.08, subdivision 3. Only one sample state ~~partisan~~ primary ballot and one ~~sample state and county nonpartisan ballot~~ shall be prepared for any county. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

Sec. 144. Minnesota Statutes 2008, section 204D.10, subdivision 1, is amended to read:

Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a major political party for a partisan office on the state ~~partisan~~ primary ballot who receives the highest number of votes shall be the nominee of that political party for that office, ~~except as otherwise provided in subdivision 2.~~

Sec. 145. Minnesota Statutes 2008, section 204D.10, subdivision 3, is amended to read:

Subd. 3. **Nonpartisan offices; nominees.** The candidates for each nonpartisan office on the state ~~and county nonpartisan~~ primary ballot receiving the highest and the next highest number of votes shall be the nominees for that office. When more than one individual is to be elected to the same nonpartisan office, the number of nominees shall be equal to twice the number of individuals to be elected, and that number of candidates receiving the highest number of votes shall be the nominees for that office.

Sec. 146. Minnesota Statutes 2008, section 204D.11, subdivision 1, is amended to read:

Subdivision 1. **White Ballot; rules.** ~~The names of the candidates for all partisan offices voted on at the state general election shall be placed on a single ballot printed on white paper which shall be known as the "white ballot." This~~ The state general election ballot shall be prepared by the county auditor subject to the rules of the secretary of state. The secretary of state shall adopt rules for preparation and time of delivery of the ~~white~~ ballot.

Sec. 147. Minnesota Statutes 2008, section 204D.12, is amended to read:

#### **204D.12 NAMES PLACED ON GENERAL ELECTION BALLOTS.**

Without payment of an additional fee, the county auditor shall place on the appropriate state general election ballot the name of every candidate:

- (a) whose nomination at the state primary has been certified by the appropriate canvassing board;
- (b) who has been nominated by petition, including candidates certified by the secretary of state; and
- (c) who was nominated and whose name was omitted from the state ~~nonpartisan~~ primary ballot pursuant to section 204D.07, subdivision 3, or 204D.08, subdivision 4. Only the names of duly nominated candidates may be placed on a ballot.

Sec. 148. Minnesota Statutes 2008, section 204D.13, is amended to read:

#### **204D.13 WHITE STATE GENERAL ELECTION BALLOT; PARTISAN OFFICES; CANDIDATES.**

Subdivision 1. **Ballot headings.** The state general election ballot must be headed with the words "State General Election Ballot."

Subd. 1a. **Order of offices.** The candidates for ~~partisan~~ offices shall be placed on the white state general election ballot in the following order: senator in Congress shall be first; representative in Congress, second; state senator, third; and state representative, fourth. The candidates for state offices shall follow in the order specified by the secretary of state federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and

questions; and judicial offices. Candidates for president and vice president and governor and lieutenant governor shall appear so that a single vote may be cast for both offices.

Subd. 2. **Order of political parties.** The first name printed for each partisan office on the white ballot shall be that of the candidate of the major political party that received the smallest average number of votes at the last state general election. The succeeding names shall be those of the candidates of the other major political parties that received a succeeding higher average number of votes respectively. For the purposes of this subdivision, the average number of votes of a major political party shall be computed by dividing the total number of votes counted for all of the party's candidates for statewide office at the state general election by the number of those candidates at the election.

Subd. 3. **Nominees by petition; placement on ballot.** The names of candidates nominated by petition for a partisan office voted on at the state general election shall be placed on the white ballot after the names of the candidates for that office who were nominated at the state primary. Prior to the state primary, the secretary of state shall determine by lot the order of candidates nominated by petition. The drawing of lots must be by political party or principle. The political party or political principle of the candidate as stated on the petition shall be placed after the name of a candidate nominated by petition. The word "nonpartisan" shall not be used to designate any partisan candidate whose name is placed on the white ballot by nominating petition.

Subd. 4. **Order of nonpartisan candidates.** The names of candidates for nonpartisan offices must be alternated in the manner provided for alternation of names of partisan candidates on state primary ballots by section 204D.08, subdivision 4. Judicial offices for a specific court for which there is only one candidate filed must appear after all other judicial offices for that same court on the ballot.

Subd. 5. **Constitutional amendments.** The secretary of state shall provide an appropriate title for each question. The title must be approved by the attorney general and consist of not more than one printed line above the question to which it refers. Just below the title, a conspicuous notice must be printed stating that a voter's failure to vote on a constitutional amendment has the effect of a negative vote.

Subd. 6. **Additional pages.** When it would not be possible to place all offices on a single ballot, the judicial offices may be placed instead on a separate ballot. This ballot must be prepared by the county auditor in the manner provided in the rules of the secretary of state and must be headed with the words: "Judicial General Election Ballot."

Sec. 149. **[204D.135] FEDERAL-ONLY BALLOT.**

(a) The names of all candidates for the offices of president and vice president of the United States and senator and representative in Congress must be placed on a ballot printed on white paper which must be known as the "federal-only ballot."

(b) This ballot must be prepared by the county auditor in the same manner as the state general election ballot and is subject to the rules adopted by the secretary of state. This ballot must be prepared and furnished in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 42, section 1973ff.

(c) The federal-only ballot must be headed with the words "State General Election Ballot."

(d) The federal-only ballot must be the only ballot sent to citizens of the United States who are eligible to vote by absentee ballot only for federal candidates in Minnesota.

Sec. 150. Minnesota Statutes 2008, section 204D.16, is amended to read:

**204D.16 SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION.**

Two weeks before the state general election the county auditor shall prepare sample copies of ~~the white and canary~~ ballots with the names of the candidates in the federal, state, and county races to be voted on in the county and shall post copies of ~~these sample ballots and a sample of the pink ballot~~ in the auditor's office for public inspection. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause the sample ~~white and canary~~ ballots to be published in at least one newspaper of general circulation in the county.

Sec. 151. Minnesota Statutes 2008, section 204D.165, is amended to read:

**204D.165 SAMPLE BALLOTS TO SCHOOLS.**

Notwithstanding any contrary provisions in section 204D.09 or 204D.16, the county auditor, two weeks before the applicable primary or general election, shall provide one copy of the sample ~~partisan primary, nonpartisan primary, canary, white, or pink~~ general election ballot to a school district upon request. The school district may have the sample ballots reproduced at its expense for classroom educational purposes and for educational activities authorized under section 204B.27, subdivision 7.

Sec. 152. Minnesota Statutes 2008, section 204D.17, is amended to read:

**~~204D.17 REPRESENTATIVE IN CONGRESS; STATE SENATOR; STATE REPRESENTATIVE~~ STATE LEGISLATURE; VACANCY IN OFFICE; SPECIAL ELECTION.**

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of ~~representative in Congress or~~ state senator or state representative shall be filled for the unexpired term by special election upon the writ of the governor as provided in sections 204D.17 to 204D.27; except that if ~~Congress or~~ the legislature will not be in session before the expiration of the vacant term no special election is required.

Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same special election and the candidates may be nominated at the same special primary. Any special primary or special election held pursuant to sections 204D.17 to 204D.27 may be held on the same day as any other election.

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

**Sec. 153. ~~[204D.175] UNITED STATES SENATE; REPRESENTATIVE IN CONGRESS; VACANCY IN OFFICE.~~**

Subdivision 1. **Special election.** (a) Except as otherwise provided in this section, a vacancy in the office of United States senator or representative in Congress shall be filled for the unexpired term at a special election upon the writ of the governor as provided in section 204D.22. The writ shall be issued within five days after the vacancy occurs, and the special election held on a Tuesday occurring between 70 and 100 days after issuance of the writ. If a regularly scheduled state primary

or general election will occur within this period, the special election must be held on that date.

(b) A special election held under this section must be held consistent with the requirements of sections 204D.18 to 204D.27.

(c) Notwithstanding section 204D.21, if a special primary is required, the special primary must be held no later than 45 days before the special election.

Subd. 2. **Vacancy late in term.** If a vacancy in office occurs after July 1 of the year immediately preceding the year in which the term is to expire, a special election must not be held. The candidate elected at the state general election to the next term for that office shall succeed to the office immediately and serve the remainder of the unexpired term.

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

Sec. 154. Minnesota Statutes 2008, section 204D.19, is amended to read:

**204D.19 SPECIAL ELECTIONS; STATE LEGISLATURE; WHEN HELD.**

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs in the office of state senator or state representative more than 150 days before the next state general election, and ~~the Congress or the legislature~~ will not be in session before the final canvass of the state general election returns, the vacancy shall be filled at the next state general election.

Subd. 2. **Special election when ~~Congress or the legislature~~ will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs in the office of state senator or state representative and ~~the Congress or legislature~~ will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in no event more than 35 days after the issuance of the writ.

Subd. 3. **Special election at other times.** When a vacancy occurs in the office of state senator or state representative at a time other than those described in subdivisions 1 and 2 the governor shall issue a writ, calling for a special election to be held so that the individual elected may take office at the opening of the next session of ~~the Congress or of the legislature~~, or at the reconvening of a session of ~~the Congress or of the legislature~~.

Subd. 4. **Writ when vacancy results from election contest.** If a vacancy results from a successful election contest, the governor shall issue 22 days after the first day of the legislative session a writ calling for a special election unless the house in which the contest may be tried has passed a resolution which states that it will or will not review the court's determination of the contest. If the resolution states that the house will not review the court's determination, the writ shall be issued within five days of the passage of the resolution.

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

Sec. 155. Minnesota Statutes 2008, section 204D.20, subdivision 1, is amended to read:

Subdivision 1. **Special primary.** Except as provided in subdivision 2, the candidates of the major

political parties to fill a vacancy shall be nominated at a special primary. The candidate of each party who receives the highest number of votes at the special primary shall be nominated ~~without reference to the ten percent requirement of section 204D.10, subdivision 2.~~

Sec. 156. Minnesota Statutes 2008, section 204D.25, subdivision 1, is amended to read:

Subdivision 1. **Form.** Except as provided in subdivision 2, the county auditor shall prepare separate ballots for a special primary and special election as required by sections 204D.17 to 204D.27. The ballots shall be headed "Special Primary Ballot" or "Special Election Ballot" as the case may be, followed by the date of the special primary or special election. Immediately below the title of each office to be filled shall be printed the words "~~To fill~~ Vacancy in term expiring .....", with the date of expiration of the term and any other information that is necessary to distinguish the office from any other office to be voted upon at the same election. For a special primary or special election, the instructions to voters may use the singular form of the word when referring to candidates and offices when only one office is to be filled at the special election. Otherwise the form of the ballots shall comply as far as practicable with the laws relating to ballots for state primaries and state general elections. The county auditor shall post a sample of each ballot in the auditor's office as soon as prepared and not later than four days before the special primary or special election. Publication of the sample ballot for a special primary or special election is not required.

Sec. 157. **[204D.29] CONTINUITY OF CONGRESS.**

Subdivision 1. **In general.** (a) If the speaker of the United States House of Representatives announces that vacancies in the representation from the states in the House of Representatives exceed 100 and one of those vacancies is in this state, the governor shall issue a writ of election to fill such vacancy by special election.

(b) As used in this section, "speaker" means the speaker of the United States House of Representatives.

Subd. 2. **Timing of special election.** A special election held under this section to fill a vacancy shall take place not later than 49 days after the speaker announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy:

(1) a regularly scheduled general election for the office involved is to be held; or

(2) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the governor prior to the date of the announcement of the vacancy by the speaker.

Subd. 3. **Nominations by parties.** If a special election is to be held under this section, the chairs of the political parties of the state shall, not later than ten days after the speaker announces that the vacancy exists, certify to the secretary of state the name of the person nominated to fill this vacancy.

Subd. 4. **Nominating petitions.** Other candidates must file an affidavit of candidacy and a nominating petition under section 204B.07 not later than ten days after the speaker announces that the vacancy exists.

Subd. 5. **Protecting ability of absent military and overseas voters to participate in special elections.** (a) **Deadline for transmittal of absentee ballots.** In conducting a special election held under this section to fill a vacancy in its representation, the state shall ensure to the greatest extent practicable that absentee ballots for the election are transmitted to voters who vote under

the procedure outlined in sections 203B.16 to 203B.27 not later than 15 days after the speaker announces that the vacancy exists.

(b) **Period for ballot transit time.** Notwithstanding the other deadlines in this section, in the case of voters who vote under the procedure outlined in sections 203B.16 to 203B.27, any otherwise valid ballot or other election material must be processed and accepted so long as the ballot or other material is received by the county auditor not later than 45 days after the ballot or other material was transmitted to the voter.

Sec. 158. Minnesota Statutes 2008, section 205.065, subdivision 1, is amended to read:

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the first Tuesday after the second Monday in September of ~~any~~ an odd-numbered year or on the date of the state primary in an even-numbered year. The municipal primary must be held in the same year in which a municipal general election is to be held for the purpose of electing officers.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 159. Minnesota Statutes 2008, section 205.065, subdivision 2, is amended to read:

Subd. 2. **Resolution or ordinance.** The governing body of a city may, by ordinance or resolution adopted at least three months before the next by June 1 in the year when a municipal general election is held, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

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

Sec. 160. Minnesota Statutes 2008, section 205.07, is amended by adding a subdivision to read:

Subd. 1a. **City council members; expiration of terms.** The terms of all city council members of charter cities expire on the first Monday in January of the year in which they expire.

Sec. 161. Minnesota Statutes 2008, section 205.075, subdivision 1, is amended to read:

Subdivision 1. **Date of election.** The general election in a town must be held on the second Tuesday in March, except as provided in subdivision 2, or when moved for bad weather as provided in section 365.51, subdivision 1.

Sec. 162. Minnesota Statutes 2008, section 205.13, subdivision 1, is amended to read:

Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of

a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

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

Sec. 163. Minnesota Statutes 2008, section 205.13, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In municipalities nominating candidates at a municipal primary, an affidavit of candidacy for a city office or town office voted on in November must be filed not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the ~~first Tuesday after the second Monday in September preceding the municipal general election~~ primary. In all other municipalities, an affidavit of candidacy must be filed not more than 70 days and not less than 56 days before the municipal general election held in March in any year or in November in an odd-numbered year, and no more than 84 days and no less than 70 days before the municipal general election held in November in an even-numbered year.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 164. Minnesota Statutes 2008, section 205.13, subdivision 2, is amended to read:

Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must separately list any office for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

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

Sec. 165. **[205.135] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled municipal elections held in an even-numbered year, the municipal clerk must provide the offices and questions to be voted on in the municipality and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days prior to the election. With the consent of the municipal clerk, the county auditor may delegate the duty to enter the information into the system to the municipal clerk.

Subd. 2. **Odd-numbered year.** For regularly scheduled municipal elections held in an odd-numbered year, the county auditor and municipal clerk may mutually decide to use the election reporting system for the election. If so, the county auditor must notify the secretary of state of the intent to use the election reporting system at least 90 days before the election, of who will be entering the data, and, if the municipal clerk will be entering the data, that the office of the municipal clerk has the technological capacity to enter the data. The county auditor or, with the consent of the county auditor, the municipal clerk must enter the offices and questions to be voted on in the municipality and the list of candidates for each office into the election results reporting system no later than 46 days before the election.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 166. Minnesota Statutes 2008, section 205.16, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, publication.** For every municipal election, the municipal clerk shall, at least ~~one week~~ two weeks before the election, publish a sample ballot in the official newspaper of the municipality, except that the governing body of a fourth class city or a town not located within a metropolitan county as defined in section 473.121 may dispense with publication.

Sec. 167. Minnesota Statutes 2008, section 205.16, subdivision 3, is amended to read:

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least ~~four days~~ two weeks before the election post a sample ballot in the clerk's office for public inspection, and post a sample ballot in each polling place on election day.

Sec. 168. Minnesota Statutes 2008, section 205.16, subdivision 4, is amended to read:

Subd. 4. **Notice to auditor.** At least 53 days prior to every municipal election held in March in any year or in November in an odd-numbered year and 67 days prior to every municipal election held in November in an even-numbered year, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. Not less than 46 days before the election in an odd-numbered year and 60 days before the election in an even-numbered year, the municipal clerk must provide written notice to the county auditor of any special election canceled under section 205.10, subdivision 6.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 169. Minnesota Statutes 2008, section 205.17, subdivision 1, is amended to read:

Subdivision 1. ~~Second, third, and fourth class Cities; towns.~~ In all statutory and home rule charter cities ~~of the second, third, and fourth class~~, and in all towns, for the municipal general election not held in conjunction with a state election, the municipal clerk shall have printed on ~~light green paper~~ the an official ballot containing the names of all candidates for municipal offices. The ballot shall be printed in quantities of 25, 50, or 100, shall be headed "City or Town Election Ballot," shall state the name of the city or town and the date of the election, and shall conform in other respects to the ~~white~~ ballot used at the state general election. The names shall be arranged on city ballots in the manner provided for the state elections. On town ballots names of the candidates for each office shall be arranged either:

- (1) alphabetically according to the candidates' surnames; or
- (2) in the manner provided for state elections if the town electors chose at the town's annual meeting to arrange the names in that way for at least two consecutive years.

Sec. 170. Minnesota Statutes 2008, section 205.17, subdivision 3, is amended to read:

Subd. 3. **Primary ballots.** The municipal primary ballot in cities ~~of the second, third, and fourth class~~ and towns ~~and the nonpartisan primary ballot in cities of the first class~~ shall conform as far as practicable with the municipal general election ballot ~~except that it shall be printed on light green~~

~~paper. No blank spaces shall be provided for writing in the names of candidates. The partisan primary ballot in cities of the first class shall conform as far as practicable with the state partisan primary ballot.~~

Sec. 171. Minnesota Statutes 2008, section 205.17, subdivision 4, is amended to read:

Subd. 4. **Blue ballots; City or town questions.** All questions relating to the adoption of a city charter or charter amendments, a proposition for the issuance of bonds, and all other questions relating to city or town affairs submitted at an election to the voters of the municipality shall be printed on ~~one separate blue~~ a ballot and shall be prepared, printed, and distributed under the direction of the municipal clerk ~~at the same time and in the same manner as other municipal ballots. The ballots, when voted, shall be deposited in a separate blue ballot box provided by the local authorities for each voting precinct. The ballots shall be canvassed, counted, and returned in the same manner as other municipal ballots.~~ The returns shall provide appropriate blank spaces for the counting, canvassing, and returning of the results of the questions ~~submitted on the blue ballot.~~

Sec. 172. Minnesota Statutes 2008, section 205.17, subdivision 5, is amended to read:

Subd. 5. **Statutory cities; vacancies.** In statutory cities, the names of candidates to fill vacancies at a special election held as provided in section 412.02, subdivision 2a, shall be placed on the municipal primary and general election ballots. The names of candidates to fill a vacancy in the office of council member in a statutory city shall be listed under the separate heading "~~Special election for council member to fill~~ Vacancy in term expiring ....." with the date of expiration of the term and any other information necessary to distinguish the office. Under the heading for the office of mayor in a special election shall be the words "~~To fill~~ Vacancy in term expiring ....."

Sec. 173. **[205.171] BALLOTS.**

In townships exempt from the requirement under section 206.57, subdivision 5, to use a voting system accessible for disabled voters, ballots must be prepared in the same manner as state primary and state general election ballots, to the extent practicable.

Sec. 174. Minnesota Statutes 2008, section 205.185, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) ~~Within seven~~ Between 11 and 17 days after an a state general election, and within 17 days after any other election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 175. Minnesota Statutes 2008, section 205.185, is amended by adding a subdivision to read:

Subd. 5. **Review of rejected absentee ballots.** Before an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from another city or county review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 176. **[205.187] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled municipal elections held in November of an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the municipal election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state under section 205.135, subdivision 2, of intent to use the election results reporting system for a municipal election, the county auditor, or with the consent of the county auditor the municipal clerk, must enter the votes in each precinct for the offices and questions voted on in the municipality into the election results reporting system.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 177. Minnesota Statutes 2008, section 205.84, subdivision 1, is amended to read:

Subdivision 1. **General provisions.** (a) In a city electing council members by wards, wards shall be as equal in population as practicable and each ward shall be composed of compact, contiguous territory. Each council member shall be a resident of the ward for which elected, but, except as otherwise provided by paragraph (b), a change in ward boundaries does not disqualify a council member from serving for the remainder of a term.

(b) Notwithstanding any home rule charter provision to the contrary, in a city of the first class where council members are elected by ward to serve for four years to terms that are not staggered, if the population of any ward changes by five percent or more, all council members must be elected to new terms at the first municipal general election after ward boundaries are redefined under subdivision 2; provided, however, that if no municipal general election would otherwise occur in the year ending in "2" or the year ending in "3," a municipal general election must be held in one of those years.

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

Sec. 178. Minnesota Statutes 2008, section 205.84, subdivision 2, is amended to read:

Subd. 2. **Effective date.** After the official certification of the federal decennial or special census, the governing body of the city shall either confirm the existing ward boundaries as conforming to the

standards of subdivision 1 or redefine ward boundaries to conform to those standards as provided in section 204B.135, subdivision 1. If the governing body of the city fails to take either action within the time required, no further compensation shall be paid to the mayor or council member until the wards of the city are either reconfirmed or redefined as required by this section. An ordinance establishing new ward boundaries pursuant to section 204B.135, subdivision 1, becomes effective on the date of the state primary election in the year ending in two, except that new ward boundaries established by a municipality in a year ending in one are effective on the date of the municipal primary election in the year ending in one.

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

Sec. 179. Minnesota Statutes 2008, section 205A.03, subdivision 1, is amended to read:

Subdivision 1. **Resolution requiring primary in certain circumstances.** The school board of a school district may, by resolution adopted by June 1 of any year, decide to choose nominees for school board by a primary as provided in this section. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked. If the board decides to choose nominees by primary and if there are more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large school board positions available, the school district must hold a primary. When a number equal to or less than twice the number of individuals to be elected to a school board office file for nomination for the office, the names of the candidates shall be placed upon the general election ballot and the school district must not hold a primary.

Sec. 180. Minnesota Statutes 2008, section 205A.03, subdivision 2, is amended to read:

Subd. 2. **Date.** The school district primary must be held on the first Tuesday after the second Monday in September of an odd-numbered year or on the date of the state primary in an even-numbered year. The primary must be held in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 181. **[205A.045] SCHOOL DISTRICT TRANSITIONS.**

Subdivision 1. **Odd year to even.** (a) The governing body of a school district may change from an odd-numbered year election to an even-numbered year election by adopting a resolution that contains an orderly plan for the transition. The resolution may include a one time, one-year extension of the term of each board member.

(b) The governing body of the school district must adopt the resolution permitted by paragraph (a) no later than 30 days before the first day to file an affidavit of candidacy for the election at which the change will take effect.

Subd. 2. **Even year to odd.** (a) The governing body of a school district may change from an even-numbered year election to an odd-numbered year election by adopting a resolution that contains an orderly plan for the transition. The resolution may include a one time, one-year extension of the term of each board member.

(b) The governing body of the school district must adopt the resolution permitted by paragraph (a) no later than 30 days before the first day to file an affidavit of candidacy for the election at which

the change will take effect.

Sec. 182. **[205A.046] SCHOOL BOARD MEMBER TERM EXPIRATION.**

The terms of all school board members expire on the first Monday in January of the year in which they expire.

Sec. 183. Minnesota Statutes 2008, section 205A.05, subdivision 1, is amended to read:

Subdivision 1. **Questions.** Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition filed with the school board of 50 or more voters of the school district or five percent of the number of voters voting at the preceding school district general election, whichever is greater, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the 30 45 days before and the 30 45 days after the state primary, during the 30 45 days before and the 40 days after the state general election. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled March election or within 45 days before and the 30 days after any regularly scheduled November election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Sec. 184. Minnesota Statutes 2008, section 205A.05, subdivision 2, is amended to read:

Subd. 2. **Vacancies in school district offices.** Special elections shall be held in school districts in conjunction with school district primary and general elections to fill vacancies in elective school district offices. When filling multiple at-large vacancies at the same election, the candidates shall file for the multiple seats of the same office, voters will be instructed to "Vote for up to..." and the candidates receiving the most votes up to the number to be elected will be elected to fill the vacancies.

Sec. 185. Minnesota Statutes 2008, section 205A.06, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 70th day and no later than the 56th day before the first Tuesday after the second Monday in September in the year when the school district general election is held in an odd-numbered year or no earlier than the 84th day and no later than the 70th day before the state primary when the school district general election is held in an even-numbered year. In all other school districts, affidavits of candidacy must be filed no earlier than the 70th day and no later than the 56th day before the school district general election in an odd-numbered year and no earlier than the 84th day and no later than the 70th day before the election in an even-numbered year.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 186. Minnesota Statutes 2008, section 205A.07, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, posting.** For every school district primary, general, or special election, the school district clerk shall at least ~~four days~~ two weeks before the primary, general, or special election, post a sample ballot in the administrative offices of the school district for public inspection, and shall post a sample ballot in each polling place on election day.

Sec. 187. Minnesota Statutes 2008, section 205A.07, subdivision 3, is amended to read:

Subd. 3. **Notice to auditor.** At least 53 days prior to every school district election in an odd-numbered year and 67 days prior to every school district election in an even-numbered year, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election. Not less than 46 days before the election, the school district clerk must provide written notice to the county auditor of any special election canceled under section 205A.05, subdivision 3.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 188. **[205A.075] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled school district elections held in an even-numbered year, the school district clerk must provide the offices and questions to be voted on in the school district and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days before the election.

Subd. 2. **Odd-numbered year.** For regularly scheduled school district elections held in an odd-numbered year, the county auditor and school district clerk may mutually decide to use the election reporting system for the election. If so, the county auditor must notify the secretary of state of intent to use the election reporting system at least 90 days before the election. The county auditor must enter the offices and questions to be voted on in the school district and the list of candidates for each office into the election results reporting system no later than 46 days prior to the election.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 189. **[205A.076] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled school district elections held in an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the school district election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state under section 205A.075, subdivision 2, of intent to use the election results reporting system for a school district election, the county auditor must enter the votes in each precinct for the offices and questions voted on in the school district into the election results reporting system.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 190. Minnesota Statutes 2008, section 205A.08, subdivision 1, is amended to read:

Subdivision 1. **Buff General election ballot.** The names of all candidates for offices to be voted on at a school district general election must be placed on a single ballot ~~printed on buff paper and known as the "buff ballot."~~

Sec. 191. Minnesota Statutes 2008, section 205A.08, subdivision 3, is amended to read:

Subd. 3. **Vacancies.** The names of candidates to fill vacancies at a school district special election held in conjunction with the primary or general election must be placed on the school district primary and general election ballots. The names of candidates to fill a vacancy in the office of school board member in a school district must be listed under the separate heading "~~Special election for school board member to fill~~ Vacancy in term expiring ....." with the date of expiration of the term and any other information necessary to distinguish the office.

Sec. 192. Minnesota Statutes 2008, section 205A.08, subdivision 4, is amended to read:

Subd. 4. ~~**Goldenrod ballots; Questions.**~~ All questions relating to a proposition for the issuance of bonds, and all other questions relating to school district affairs submitted at an election to the voters of the school district, shall be printed on ~~one separate goldenrod~~ a ballot and shall be prepared, printed, and distributed under the direction of the school district clerk ~~at the same time and in the same manner as other school district ballots. The ballots, when voted, shall be deposited in a separate goldenrod ballot box provided by the local authorities for each voting precinct. The ballots shall be canvassed, counted, and returned in the same manner as other school district ballots.~~ The returns shall provide appropriate blank spaces for the counting, canvassing, and return of the results of the questions ~~submitted on the goldenrod ballot.~~

Sec. 193. Minnesota Statutes 2008, section 205A.10, subdivision 2, is amended to read:

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from an absentee ballot board established pursuant to section ~~203B.13~~ 203B.12 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction with a statewide election.

**EFFECTIVE DATE.** This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 194. Minnesota Statutes 2008, section 205A.10, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** ~~Within seven~~ Between

11 and 17 days after a school district election held concurrently with a state general election, and within seven days after a school district election held on any other date, other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Sec. 195. Minnesota Statutes 2008, section 205A.10, is amended by adding a subdivision to read:

Subd. 6. **Review of rejected absentee ballots.** Before an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from a city or county review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 196. Minnesota Statutes 2008, section 205A.11, subdivision 3, is amended to read:

Subd. 3. **Procedure.** The designation of a polling place under this section remains effective until a different polling place is designated. No designation of a new or different polling place becomes effective less than 90 days before an election, except that a new polling place may be designated to replace a polling place that has become unavailable for use. The school board must notify the county auditor within 30 days after the establishment of a polling place as provided in this section. The notice must include a list of the precincts that will be voting at each polling place. The school board must send the notice required by section 204B.16, subdivision 1a, after a polling place is established as provided in this section, but no additional notices of this kind are required for any subsequent similar elections until the location of the polling place or the combination of precincts voting at the polling place is changed. The secretary of state shall provide a single polling place roster for use in any polling place established as provided in this section. A single set of election judges must be appointed to serve in the polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all the precincts to be

voting at the single polling place. A single ballot box may be provided for all the ballots.

Sec. 197. Minnesota Statutes 2008, section 206.56, subdivision 3, is amended to read:

Subd. 3. **Ballot.** "Ballot" includes ~~paper ballots, ballot cards~~ designed to be counted by hand, ballots marked so that votes may be counted by automatic tabulating equipment, and the paper ballot marked by an electronic marking device.

Sec. 198. Minnesota Statutes 2008, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority ~~approved~~ accredited by the secretary of state and conform to current standards for voting equipment ~~Election Assistance Commission~~ Election Assistance Commission at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Federal Election Commission or its successor, the Election Assistance Commission. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, source code that is trade secret information must be treated as nonpublic information, in accordance with section 13.37. A third-party evaluator must not disclose the source code to anyone else.

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

Sec. 199. Minnesota Statutes 2008, section 206.82, subdivision 2, is amended to read:

Subd. 2. **Plan.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each odd-numbered year, and at least ten weeks before the date of the state primary in each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 200. Minnesota Statutes 2008, section 206.83, is amended to read:

**206.83 TESTING OF VOTING SYSTEMS.**

~~Within 14 days before election day,~~ The official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots ~~punched or~~ marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ~~ballot cards~~ ballots which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ~~ballot cards~~ ballots must be sealed, retained, and disposed of as provided for ~~paper~~ other ballots.

Testing of equipment used for early voting must be conducted as soon as practicable after the equipment has been programmed. Testing of equipment used on the day of the election must be conducted within the 14 days before election day.

Sec. 201. Minnesota Statutes 2008, section 206.84, subdivision 3, is amended to read:

Subd. 3. **Ballots.** ~~The ballot information must be in the same order provided for paper ballots, except that the information may be in vertical or horizontal rows, or on a number of separate pages.~~ The secretary of state shall provide by rule for standard ballot formats for electronic voting systems. Electronic ballot displays and audio ballot readers shall be in the order provided for on the optical scan ballot. Electronic ballot displays may employ zooms or other devices as assistive voting technology. Audio ballot readers may employ rewinds or audio cues as assistive voting technology.

~~Ballot cards~~ Ballots may contain special printed marks as required for proper positioning and reading of the ballots by electronic vote counting equipment. ~~Ballot cards~~ Ballots must contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.

Sec. 202. Minnesota Statutes 2008, section 206.86, subdivision 6, is amended to read:

Subd. 6. **Final tabulation Requirements.** ~~A final tabulation of ballots must be obtained from the automatic tabulating equipment after all damaged or defective cards have been replaced. The final tabulation, together with the returns of write-in and absentee votes and the precinct summary statements prepared in accordance with section 204C.24, constitute the official return of each precinct. Upon completion of the count the returns are open to the public.~~ The automatic tabulating equipment must be programmed to provide a complete recapitulation of all ballots processed. It may be programmed to provide information in addition to that required in the official return of each precinct, if the officials in charge of elections deem that advisable in order to provide election

statistics to evaluate the performance of the electronic voting system or other aspects of the election.

Sec. 203. Minnesota Statutes 2008, section 206.89, subdivision 2, is amended to read:

Subd. 2. **Selection for review; notice.** At the canvass of the state primary, the county canvassing board in each county must set the date, time, and place for the postelection review of the state general election to be held under this section.

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed by lot. The early ballots counted centrally and the ballots counted by each ballot board must be considered a precinct eligible to be selected for the purposes of this subdivision. The county canvassing board of a county with fewer than 50,000 registered voters must conduct a postelection review of a total of at least two precincts. The county canvassing board of a county with between 50,000 and 100,000 registered voters must conduct a review of a total of at least three precincts. The county canvassing board of a county with over 100,000 registered voters must conduct a review of a total of at least four precincts, or three percent of the total number of precincts in the county, whichever is greater. At least one precinct selected in each county must have had more than 150 votes cast at the general election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. If the selection of precincts has not resulted in the selection of at least four precincts in each congressional district, the secretary of state may require counties to select by lot additional precincts to meet the congressional district requirement. The secretary of state must post this information on the office Web site.

Sec. 204. Minnesota Statutes 2008, section 206.89, subdivision 3, is amended to read:

Subd. 3. **Scope and conduct of review.** The county canvassing board shall appoint the postelection review official as defined in subdivision 1. The postelection review must be conducted of the votes cast for president or governor; United States senator; and United States representative, except that a review of a race must not be conducted if that race is subject to an automatic recount under section 204C.35. The postelection review official may conduct postelection review of the votes cast for additional offices.

The postelection review must be conducted in public at the location where the voted ballots have been securely stored after the state general election or at another location chosen by the county canvassing board. The postelection review official for each precinct selected must conduct the postelection review and may be assisted by election judges designated by the postelection review official for this purpose. The party balance requirement of section 204B.19 applies to election judges designated for the review. The postelection review must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner provided by section 204C.21. The postelection review must be conducted in the manner provided for recounts under section 204C.361 to the extent practicable. The review must be completed no later than two days before the meeting of the state canvassing board to certify the results of the state general election.

Sec. 205. Minnesota Statutes 2008, section 206.90, subdivision 9, is amended to read:

Subd. 9. **Spoiled ~~ballot cards~~ ballots.** Automatic tabulating equipment and electronic ballot markers must be capable of examining a ballot ~~card~~ for defects and returning it to the voter before it

is counted and deposited into the ballot box and must be programmed to return as a spoiled ballot a ballot card with votes for an office or question which exceed the number which the voter is entitled to cast and at a primary a ballot card with votes for candidates of more than one party.

Sec. 206. Minnesota Statutes 2008, section 206.90, subdivision 10, is amended to read:

Subd. 10. **Counting write-in votes.** In precincts using optical scan voting systems, the judges shall count the write-in votes and enter the number of those votes on forms provided for the purpose. ~~When the write-in votes are recorded on a medium that cannot be examined for write-in votes by the automatic tabulating equipment or the automatic tabulating equipment does not reject, with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to count, all ballot envelopes or other medium on which write-in votes have been recorded must be serially numbered, starting with the number one and the same number must be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot card and the card must be returned to the counting center in an envelope marked "defective ballots"; however, valid votes on ballot cards containing invalid votes must be counted as provided in section 206.86, subdivision 5.~~

~~When the write-in votes are recorded on ballot cards that can be examined for write-in votes by the automatic tabulating equipment and the automatic tabulating equipment rejects all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast, the judges shall examine the ballot cards with write-in votes and count the valid write-in votes.~~

Sec. 207. Minnesota Statutes 2008, section 208.03, is amended to read:

### **208.03 NOMINATION OF PRESIDENTIAL ELECTORS.**

Presidential electors for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. ~~On or before primary~~ At least 70 days before the general election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of eight alternate presidential electors, and the names of the party candidates for president and vice president. The chair shall also certify that the party candidates for president and vice president have no affidavit on file as a candidate for any office in this state at the ensuing general election.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 208. Minnesota Statutes 2008, section 208.04, is amended to read:

### **208.04 PREPARATION OF BALLOTS.**

Subdivision 1. **Form of presidential ballots.** When presidential electors and alternates are to be voted for, a vote cast for the party candidates for president and vice president shall be deemed a vote for that party's electors and alternates as filed with the secretary of state. The secretary of state shall certify the names of all duly nominated presidential and vice presidential candidates to the county auditors of the counties of the state. Each county auditor, subject to the rules of the secretary of state, shall cause the names of the candidates of each major political party and the candidates nominated

by petition to be printed in ~~capital~~ upper and lowercase letters, set in type of the same size and style as for candidates on the state white ballot, before the party designation. ~~To the left of, and on the same line with the names of the candidates for president and vice president, near the margin, shall be placed a square or box, in which the voters may indicate their choice by marking an "X."~~

The form for the presidential ballot and the relative position of the several candidates shall be determined by the rules applicable to other state officers. ~~The state ballot, with the required heading, shall be printed on the same piece of paper and shall be below the presidential ballot with a blank space between one inch in width.~~

Subd. 2. **Applicable rules.** The rules for preparation, ~~state contribution to the cost of printing, and delivery~~ of presidential ballots are the same as the rules for white state general election ballots under section 204D.11, subdivision 1.

Sec. 209. Minnesota Statutes 2008, section 211B.045, is amended to read:

**211B.045 NONCOMMERCIAL SIGNS EXEMPTION.**

In any municipality, whether or not the municipality has an ordinance that regulates the size or number of noncommercial signs, all noncommercial signs of any size may be posted in any number from ~~August 1~~ 45 days before the state primary in a state general election year until ten days following the state general election.

**EFFECTIVE DATE.** This section is effective for the state primary in 2010 and thereafter.

Sec. 210. Minnesota Statutes 2008, section 211B.11, is amended by adding a subdivision to read:

Subd. 3a. **Labels prohibited.** Write-in candidates must not distribute labels to voters to be affixed to optical scan ballots in precincts in which ballots are tabulated by precinct or central count optical scan tabulators. A violation of this subdivision by a candidate is subject to a civil penalty of up to \$5,000 per precinct in the district. The civil penalty is payable to the jurisdiction that owns the ballot tabulators for use in election equipment repair and maintenance. Notwithstanding section 211B.37, the costs of a complaint alleging violation of this subdivision shall be assessed against the candidate.

Sec. 211. Minnesota Statutes 2008, section 412.02, subdivision 2a, is amended to read:

Subd. 2a. **Vacancy.** Except as otherwise provided in subdivision 2b, a vacancy in an office shall be filled by council appointment until an election is held as provided in this subdivision. In case of a tie vote in the council, the mayor shall make the appointment.

(1) If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election. If, because of a vacancy, more than one council member is to be chosen at the same election, candidates for council member shall file for either a two-year or a four-year term. If more than one candidate is to be elected for the same length term, the ballot must instruct voters to "Vote for up to ..." up to the number of candidates to be elected for the two-year or four-year term.

(2) If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor. ~~The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election.~~

Sec. 212. Minnesota Statutes 2008, section 414.02, subdivision 4, is amended to read:

Subd. 4. **Effective date of incorporation.** The incorporation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the director's order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 213. Minnesota Statutes 2008, section 414.031, subdivision 6, is amended to read:

Subd. 6. **Effective date of annexation.** The annexation shall be effective as of the date fixed in the annexation order or on a later date fixed in the annexation order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 214. Minnesota Statutes 2008, section 414.0325, subdivision 1, is amended to read:

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the chief administrative law judge.

(d) The resolution shall include a description of the designated area and the reasons for designation.

(e) Thereafter, an annexation of any part of the designated area may be initiated by:

(1) submitting to the chief administrative law judge a resolution of any signatory to the joint resolution; or

(2) the chief administrative law judge.

(f) Whenever a state agency, other than the pollution control agency, orders a municipality to

extend a municipal service to an area, the order confers jurisdiction on the chief administrative law judge to consider designation of the area for orderly annexation.

(g) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the chief administrative law judge may review and comment, but may not alter the boundaries.

(h) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the chief administrative law judge is necessary, the chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution. A joint resolution filed within the 51 days before a regularly scheduled election must provide in the conditions for its annexation that the annexation will not be effective until the day after the regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 215. Minnesota Statutes 2008, section 414.0325, subdivision 4, is amended to read:

Subd. 4. **Effective date of annexation.** The chief administrative law judge's order shall be effective upon the issuance of the order or at such later time as is provided in the order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 216. Minnesota Statutes 2008, section 414.033, subdivision 7, is amended to read:

Subd. 7. **Filing; effective date; copy to auditors.** Any annexation ordinance provided for in this section must be filed with the chief administrative law judge, the township, the county auditor and the secretary of state and is final on the date the ordinance is approved by the chief administrative law judge, except that an ordinance approved within the 21 days before a regularly scheduled election is not effective until the day after the regularly scheduled election. A copy of the annexation ordinance must be delivered immediately by the governing body of the municipality to the appropriate county auditors. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 217. Minnesota Statutes 2008, section 447.32, subdivision 4, is amended to read:

Subd. 4. **Candidates; ballots; certifying election.** A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than 70 84 days nor less than 56 70 days before the first Tuesday after the first Monday in November of the year in which the general election is held and no more than 70 days and no less than 56 days before the election in an odd-numbered year. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be printed on ~~tan~~ paper and prepared as provided in the rules of the secretary of state. In hospital district elections not held in conjunction with other elections, ballots shall be prepared in the same manner as state primary and state general election ballots, to the extent practicable. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 218. Laws 2005, chapter 162, section 34, subdivision 2, is amended to read:

Subd. 2. **Optical scan equipment.** \$6,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase optical scan voting equipment. Counties are eligible for grants to the extent that they decide to purchase ballot marking machines and as a result do not have sufficient Help America Vote Act grant money remaining to also purchase a compatible precinct-based optical scan machine or central-count machine. These grants must be allocated to counties at a rate of \$3,000 per eligible precinct until the appropriation is exhausted, with priority in the payment of grants to be given to counties currently using hand- and central-count voting systems and counties using precinct-count optical scan voting systems incompatible with assistive voting systems or ballot marking machines. This appropriation is available until June 30, ~~2009~~ 2012.

Sec. 219. **REPEALER.**

(a) Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.13, subdivisions 1, 2, 3, and 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, and 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1 and 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, and 6; 204D.14, subdivisions 1 and 3; 204D.15, subdivisions 1 and 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, and 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, and 7; 206.86, subdivisions 1, 2, 3, 4, and 5; 206.90, subdivisions 3, 5, 6, 7, and 8; and 206.91, are repealed.

(b) Minnesota Statutes 2008, section 203B.11, subdivision 2, is repealed.

(c) Minnesota Rules, part 8230.4365, subpart 5, is repealed.

Sec. 220. **EFFECTIVE DATE.**

Sections 10, 20, 21, 23, 26, 36, 37, 50 to 55, 96, 200, 203, and section 219, paragraph (b), are

effective when the secretary of state has certified that:

(1) the statewide voter registration system has been tested, shown to properly allow for the tracking of the information required to conduct early voting, and can handle the expected volume of use; and

(2) that voting equipment that can tabulate at least 30 different ballot styles has been certified for use in this state.

Upon certification, sections 10, 20, 21, 23, 26, and 36 apply to all federal, state, county, and city elections held in conjunction with the state primary in 2010 and thereafter, and to all other elections held in 2014 and thereafter. A municipality may implement the requirements of this chapter before the date provided in this paragraph, if the secretary of state has made the certification required by this section at least 90 days before the date of the election when early voting will be used."

Delete the title and insert:

"A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2;

205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5."

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

**Senator Scheid from the Committee on Commerce and Consumer Protection, to which was re-referred**

**S.F. No. 1599:** A bill for an act relating to health; promoting preventive health care by requiring high deductible health plans used with a health savings account to cover preventive care with no deductible as permitted by federal law; amending Minnesota Statutes 2008, section 62Q.65.

Reports the same back with the recommendation that the bill do pass. Report adopted.

## SECOND READING OF SENATE BILLS

S.F. Nos. 702, 1504, 1867, 1889, 1982, 1331 and 1599 were read the second time.

## RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

## CALL OF THE SENATE

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

**MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1309, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1309 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 4, 2009

**CONFERENCE COMMITTEE REPORT ON H. F. NO. 1309**

A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; modifying previous appropriations provisions; modifying various provisions related to transportation finance and policy; modifying provisions related to speed limits, fracture-critical bridges, transit, passenger rail, motor vehicle lease sales tax revenue allocations, transit services, and the Buffalo Ridge Regional Rail Authority; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2; 161.081, by adding a subdivision; 161.36, subdivision 7, as added; 162.12, subdivision 2; 169.14, by adding a subdivision; 174.24, subdivision 1a, by adding a subdivision; 174.50, by adding a subdivision; 297A.815, subdivision 3; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, section 5; proposing coding for new law in Minnesota Statutes, chapters 161; 174.

May 3, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

We, the undersigned conferees for H. F. No. 1309 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1309 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**TRANSPORTATION APPROPRIATIONS**

**Section 1. SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>98,385,000</u> \$	<u>95,885,000</u> \$	<u>194,270,000</u>
<u>Airports</u>	<u>21,909,000</u>	<u>19,659,000</u>	<u>41,568,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>	<u>1,021,264,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>	<u>275,403,000</u>
<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>	<u>98,076,000</u>
<u>H.U.T.D.</u>	<u>9,538,000</u>	<u>9,838,000</u>	<u>19,376,000</u>
<u>Trunk Highway</u>	<u>1,264,921,000</u>	<u>1,372,687,000</u>	<u>2,637,608,000</u>
<b><u>Total</u></b>	<b>\$ <u>2,074,580,000</u> \$</b>	<b><u>2,212,985,000</u> \$</b>	<b><u>4,287,565,000</u></b>

**Sec. 2. TRANSPORTATION APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the trunk highway fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
2010                      2011

**Sec. 3. DEPARTMENT OF TRANSPORTATION**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b>\$ <u>1,848,892,000</u> \$</b>	<b><u>1,987,197,000</u></b>
<u>Appropriations by Fund</u>		
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>18,191,000</u>	<u>15,691,000</u>

<u>Airports</u>	<u>21,859,000</u>	<u>19,609,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>
<u>Trunk Highway</u>	<u>1,178,053,000</u>	<u>1,286,019,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Multimodal Systems**

(a) **Aeronautics**

(1) **Airport Development and Assistance** 16,548,000 14,298,000

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

Notwithstanding Minnesota Statutes, section 360.305, subdivision 4, paragraph (c), of the appropriation in fiscal year 2010, the commissioner may provide a local contribution for aeronautics project elements if:

(1) federal funds are made available for the project in federal fiscal year 2009 by the United States Department of Transportation, Federal Aviation Administration from the airport improvement program under United States Code, title 49, section 47101, et seq.;

(2) the project requires a five percent match from nonfederal sources; and

(3) the airport is not classified as a key system airport, as provided in Minnesota Statutes, section 360.305, subdivision 3.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

If the appropriation for either year does not exhaust the balance in the state airports fund, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purpose of airport development and assistance and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

**(2) Aviation Support and Services** 6,123,000 6,123,000

Appropriations by Fund

<u>Airports</u>	<u>5,286,000</u>	<u>5,286,000</u>
<u>Trunk Highway</u>	<u>837,000</u>	<u>837,000</u>

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

**(b) Transit** 18,036,000 15,536,000

Appropriations by Fund

<u>General</u>	<u>17,261,000</u>	<u>14,761,000</u>
<u>Trunk Highway</u>	<u>775,000</u>	<u>775,000</u>

The base appropriation from the general fund for fiscal years 2012 and 2013 is \$17,261,000 for each year.

Of these appropriations from the general fund, \$19,300 in each year is for the administrative expenses of the Minnesota Council on Transportation Access, and for other costs relating to the preparation of required reports, including the costs of hiring a consultant, if the council is created.

**(c) Commuter and Passenger Rail** 500,000 500,000

This appropriation is from the general fund for (1) development of the comprehensive

statewide freight and passenger rail plan under Minnesota Statutes, section 174.03, subdivision 1b, and (2) passenger rail system planning, alternatives analysis, environmental analysis, design, preliminary engineering, and land acquisition under Minnesota Statutes, sections 174.632 to 174.636.

<u>(d) Freight</u>	<u>5,262,000</u>	<u>5,262,000</u>
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Appropriations by Fund

<u>General</u>	<u>365,000</u>	<u>365,000</u>
<u>Trunk Highway</u>	<u>4,897,000</u>	<u>4,897,000</u>

The commissioner of transportation shall enter into an agreement to either forgive any money due (approximately \$2,851,118) on loan agreements 65572 and 67106 or convert the loans to grants. The loans were made to the Buffalo Ridge Regional Railroad Authority, which was established by Rock and Nobles Counties, to enable the counties to purchase and rehabilitate 41.4 miles of rail line providing transportation service to the counties. The agreement must ensure that all terms, provisions, and conditions of the loan agreements are deemed to be fully satisfied and performed on the part of the railroad authority and counties. If the railroad authority sells all or any part of the rail line that has been rehabilitated with either of the loans, the railroad authority must pay the net proceeds to the commissioner, up to the amount loaned.

Subd. 3. State Roads

<u>(a) Infrastructure Operations and Maintenance</u>	<u>251,643,000</u>	<u>245,892,000</u>
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The base appropriation for fiscal years 2012 and 2013 is \$257,395,000 for each year.

(b) Infrastructure Investment and Planning

<u>(1) Infrastructure Investment Support</u>	<u>201,461,000</u>	<u>196,935,000</u>
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The base appropriation for fiscal years 2012 and 2013 is \$205,988,000 for each year.

\$266,000 the first year and \$266,000 the second year are available for grants to metropolitan planning organizations outside the seven-county metropolitan area.

\$75,000 the first year and \$75,000 the second year are for a transportation research contingent account to finance research projects that are reimbursable from the federal government or from other sources. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$600,000 the first year and \$600,000 the second year are available for grants for transportation studies outside the metropolitan area to identify critical concerns, problems, and issues. These grants are available (1) to regional development commissions; (2) in regions where no regional development commission is functioning, to joint powers boards established under agreement of two or more political subdivisions in the region to exercise the planning functions of a regional development commission; and (3) in regions where no regional development commission or joint powers board is functioning, to the department's district office for that region.

**(2) State Road Construction**

551,300,000

598,700,000

The base appropriation for fiscal years 2012 and 2013 is \$635,000,000 for each year.

It is estimated that these appropriations will be funded as follows:

<u>Appropriations by Fund</u>		
<u>Federal Highway Aid</u>	<u>301,100,000</u>	<u>388,500,000</u>
<u>Highway User Taxes</u>	<u>250,200,000</u>	<u>210,200,000</u>

The commissioner of transportation shall notify the chairs and ranking minority

members of the senate and house of representatives committees with jurisdiction over transportation finance of any significant events that should cause these estimates to change.

This appropriation is for the actual construction, reconstruction, and improvement of trunk highways, including design-build contracts and consultant usage to support these activities. This includes the cost of actual payment to landowners for lands acquired for highway rights-of-way, payment to lessees, interest subsidies, and relocation expenses.

The commissioner shall expend up to one-half of one percent of the federal appropriations under this paragraph as grants to opportunity industrialization centers and other nonprofit job training centers for job training programs related to highway construction.

The commissioner may transfer up to \$15,000,000 each year to the transportation revolving loan fund.

The commissioner may receive money covering other shares of the cost of partnership projects. These receipts are appropriated to the commissioner for these projects.

**(3) Highway Debt Service**

101,170,000

173,400,000

\$86,517,000 the first year and \$157,304,000 the second year are for transfer to the state bond fund. If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation. Any excess appropriation cancels to the trunk highway fund.

**(c) Electronic Communications**

5,177,000

5,177,000

Appropriations by Fund

<u>General</u>	<u>9,000</u>	<u>9,000</u>
<u>Trunk Highway</u>	<u>5,168,000</u>	<u>5,168,000</u>

The general fund appropriation is to equip and operate the Roosevelt signal tower for Lake of the Woods weather broadcasting.

Subd. 4. Local Roads

<u>(a) County State Aids</u>	<u>496,786,000</u>	<u>524,478,000</u>
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This appropriation is from the county state-aid highway fund and is available until spent.

<u>(b) Municipal State Aids</u>	<u>134,003,000</u>	<u>141,400,000</u>
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This appropriation is from the municipal state-aid street fund and is available until spent.

(c) State Aid Appropriation Adjustments

If an appropriation for either county state aids or municipal state aids does not exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purposes of county state aids or municipal state aids, as appropriate.

If the appropriation for either county state aids or municipal state aids does exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction

over transportation finance of the amount by which the appropriation exceeds the balance and shall then reduce that amount from the appropriation.

**Subd. 5. General Support and Services**

<b>(a) <u>Department Support</u></b>	<u>43,440,000</u>	<u>42,449,000</u>
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Appropriations by Fund

<u>Airports</u>	<u>25,000</u>	<u>25,000</u>
<u>Trunk Highway</u>	<u>43,415,000</u>	<u>42,424,000</u>

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$41,907,000 for each year.

<b>(b) <u>Buildings</u></b>	<u>17,443,000</u>	<u>17,047,000</u>
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Appropriations by Fund

<u>General</u>	<u>56,000</u>	<u>56,000</u>
<u>Trunk Highway</u>	<u>17,387,000</u>	<u>16,991,000</u>

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$17,784,000 for each year.

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

**Subd. 6. Transfers**

(a) With the approval of the commissioner of finance, the commissioner of transportation may transfer unencumbered balances among the appropriations from the trunk highway fund and the state airports fund made in this section. No transfer may be made from the appropriation for state road construction. No transfer may be made from the appropriations for debt service to any other appropriation. Transfers under this paragraph may not be made between funds. Transfers between programs must be reported immediately to the chairs and ranking minority members of the senate and

house of representatives committees with jurisdiction over transportation finance.

(b) The commissioner of finance shall transfer from the flexible account in the county state-aid highway fund \$8,440,000 the first year and \$1,550,000 the second year to the municipal turnback account in the municipal state-aid street fund; and the remainder in each year to the county turnback account in the county state-aid highway fund.

#### **Subd. 7. Use of State Road Construction Appropriations**

Any money appropriated to the commissioner of transportation for state road construction for any fiscal year before fiscal year 2010 is available to the commissioner during the biennium to the extent that the commissioner spends the money on the state road construction project for which the money was originally encumbered during the fiscal year for which it was appropriated. The commissioner of transportation shall report to the commissioner of finance by August 1, 2009, and August 1, 2010, on a form the commissioner of finance provides, on expenditures made during the previous fiscal year that are authorized by this subdivision.

The commissioner must allocate money appropriated in this section so as to maximize the use of all available federal money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and to the extent possible, any other federal funding.

#### **Subd. 8. Contingent Appropriation**

The commissioner of transportation, with the approval of the governor and the written approval of at least five members of a group consisting of: (1) the members of the Legislative Advisory Commission under Minnesota Statutes, section 3.30; and (2) the ranking minority members of the house of representatives and senate committees with

jurisdiction over transportation finance, may transfer all or part of the unappropriated balance in the trunk highway fund to an appropriation (1) for trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund or to take advantage of federal advanced construction funding, (2) for trunk highway maintenance in order to meet an emergency, or (3) to pay tort or environmental claims. Nothing in this subdivision authorizes the commissioner to increase the use of federal advanced construction funding beyond amounts specifically authorized. Any transfer as a result of the use of federal advanced construction funding must include an analysis of the effects on the long-term trunk highway fund balance. The amount transferred is appropriated for the purpose of the account to which it is transferred.

**Subd. 9. Appropriations Carryforward**

Notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, the commissioner may carry forward to fiscal years 2010 and 2011 any unexpended and unencumbered operating balances from trunk highway appropriations for fiscal year 2009.

**Subd. 10. Use of Trunk Highway Fund**

No transfer or expenditure of trunk highway funds may be made for the purpose of paying personnel costs incurred on behalf of the Governor's Office.

**Subd. 11. Disadvantaged Business Enterprise Program**

The commissioner shall, in utilizing these appropriations, comply in all respects with Minnesota Statutes, section 174.03, subdivision 11.

**Sec. 4. METROPOLITAN COUNCIL**



<u>Appropriations by Fund</u>		
<u>General</u>	<u>41,000</u>	<u>41,000</u>
<u>Trunk Highway</u>	<u>393,000</u>	<u>393,000</u>
<b><u>(b) Public Safety Support</u></b>		<u>8,168,000</u>

<u>Appropriations by Fund</u>		
<u>General</u>	<u>3,296,000</u>	<u>3,296,000</u>
<u>H.U.T.D.</u>	<u>1,366,000</u>	<u>1,366,000</u>
<u>Trunk Highway</u>	<u>3,506,000</u>	<u>3,506,000</u>

\$380,000 the first year and \$380,000 the second year are appropriated from the general fund for payment of public safety officer survivor benefits under Minnesota Statutes, section 299A.44. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$1,367,000 the first year and \$1,367,000 the second year are appropriated from the general fund to be deposited in the public safety officer's benefit account. This money is available for reimbursements under Minnesota Statutes, section 299A.465.

\$508,000 the first year and \$508,000 the second year are appropriated from the general fund for soft body armor reimbursements under Minnesota Statutes, section 299A.38.

\$792,000 the first year and \$792,000 the second year are appropriated from the general fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for general fund purposes in the administration and related services program.

\$610,000 the first year and \$610,000 the second year are appropriated from the highway user tax distribution fund for

transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for highway user tax distribution fund purposes in the administration and related services program.

\$716,000 the first year and \$716,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the general fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the general fund for expenses not related to the fund. These represent amounts appropriated out of the general fund for operation of the criminal justice data network related to driver and motor vehicle licensing.

**(c) Technical Support Services** 3,835,000 3,835,000

Appropriations by Fund

<u>General</u>	<u>1,472,000</u>	<u>1,472,000</u>
<u>H.U.T.D.</u>	<u>19,000</u>	<u>19,000</u>
<u>Trunk Highway</u>	<u>2,344,000</u>	<u>2,344,000</u>

**Subd. 3. State Patrol**

**(a) Patrolling Highways** 71,522,000 71,522,000

Appropriations by Fund

<u>General</u>	<u>37,000</u>	<u>37,000</u>
<u>H.U.T.D.</u>	<u>92,000</u>	<u>92,000</u>
<u>Trunk Highway</u>	<u>71,393,000</u>	<u>71,393,000</u>

**(b) Commercial Vehicle Enforcement** 7,996,000 7,796,000

This appropriation is from the trunk highway fund.

\$800,000 the first year and \$600,000 the second year are for the Office of Pupil Transportation Safety.

<b><u>(c) Capitol Security</u></b>	<u>3,113,000</u>	<u>3,113,000</u>
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This appropriation is from the general fund.

The commissioner may not: (1) spend any money from the trunk highway fund for capitol security; or (2) permanently transfer any state trooper from the patrolling highways activity to capitol security.

The commissioner may not transfer any money: (1) appropriated for Department of Public Safety administration, the patrolling of highways, commercial vehicle enforcement, or driver and vehicle services to capitol security; or (2) from capitol security.

**Subd. 4. Driver and Vehicle Services**

<b><u>(a) Vehicle Services</u></b>	<u>26,909,000</u>	<u>27,209,000</u>
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Appropriations by Fund

<u>Special Revenue</u>	<u>18,973,000</u>	<u>18,973,000</u>
<u>H.U.T.D.</u>	<u>7,936,000</u>	<u>8,236,000</u>

The special revenue fund appropriation is from the vehicle services operating account.

<b><u>(b) Driver Services</u></b>	<u>28,712,000</u>	<u>28,712,000</u>
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Appropriations by Fund

<u>Special Revenue</u>	<u>28,711,000</u>	<u>28,711,000</u>
<u>Trunk Highway</u>	<u>1,000</u>	<u>1,000</u>

The special revenue fund appropriation is from the driver services operating account.

<b><u>Subd. 5. Traffic Safety</u></b>	<u>435,000</u>	<u>435,000</u>
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The commissioner of public safety shall spend 50 percent of the money available to the state under Public Law 105-206, section 164, and the remaining 50 percent must be transferred to the commissioner of transportation for hazard elimination activities under United States Code, title 23, section 152.



**(1) Airport Development and Assistance**

20,298,000

5,298,000

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

\$6,000,000 the first year is a onetime appropriation and does not add to the base appropriations. The base for this appropriation for fiscal year 2010 is \$14,298,000.

Of this appropriation \$200,000 the first year is to the Legislative Coordinating Commission for the administrative expenses of the Airport Funding Advisory Task Force and for other costs relating to the preparation of the task force report, including the costs of hiring a consultant, if needed. Any remaining amount of this appropriation shall revert to the state airports fund.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation.

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

**(2) Aviation Support and Services**

## Appropriations by Fund

Airports	5,184,000	5,286,000
Trunk Highway	852,000	866,000

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

**(b) Transit**

## Appropriations by Fund

General	18,813,000	<u>18,816,000</u>
Trunk Highway	740,000	<u>761,000</u>

Of the appropriation in fiscal year 2009, \$2,500,000 may be expended for financial assistance under Minnesota Statutes, section 174.24, notwithstanding the payment schedule under Minnesota Statutes, section 174.24, subdivision 5.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for fiscal years 2010 and 2011.

**(c) Freight**

	Appropriations by Fund	
General	357,000	367,000
Trunk Highway	5,028,000	5,158,000

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

Sec. 9. Laws 2008, chapter 152, article 1, section 5, is amended to read:

**Sec. 5. APPROPRIATION; TRANSPORTATION EMERGENCY RELIEF.**

\$55,000,000 in fiscal year 2008 and ~~\$77,000,000~~ \$33,000,000 in fiscal year 2009 are appropriated to the commissioner of transportation from the trunk highway fund for the purposes specified in the federal grants and aids related to the I-35W bridge collapse on marked Interstate Highway I-35W in Minneapolis. The appropriation in fiscal year 2009 is available for other trunk highway construction projects. This appropriation is in addition to appropriations under Laws 2007, chapter 143, article 1, section 3, and Laws 2007, First Special Session chapter 2, article 2, section 2.

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

**Sec. 10. METROPOLITAN LIVABLE COMMUNITIES FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, sections 473.25 to 473.255, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 money that is not committed to grant or loan awards made by the council as follows:

(1) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the tax base revitalization account in 2009, 2010, and 2011, pursuant to Minnesota Statutes, section 473.252;

(2) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the metropolitan livable communities demonstration account in 2009, 2010, and 2011 pursuant to Minnesota Statutes, section 473.253; and

(3) balances in the metropolitan livable communities fund accounts in 2009, 2010, and 2011.

The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under

Minnesota Statutes, sections 473.371 to 473.449. If the council transfers funds pursuant to this section, the council shall amend the annual distribution plan described in Minnesota Statutes, section 473.25, paragraph (d), and include information about the transfer in the annual report required under Minnesota Statutes, section 473.25, paragraph (e).

**Sec. 11. RIGHT-OF-WAY ACQUISITION LOAN FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, section 473.167, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 up to 75 percent of the amounts levied and collected in 2009, 2010, and 2011 under Minnesota Statutes, section 473.167, subdivision 3. The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449.

**ARTICLE 2**

**TRUNK HIGHWAY BONDS**

**Section 1. HIGHWAY APPROPRIATION AND BOND SALE.**

Subdivision 1. **Appropriation.** \$40,000,000 is appropriated from the bond proceeds account in the trunk highway fund to the commissioner of transportation for (1) construction of interchanges involving a trunk highway, where the interchange will promote economic development, increase employment, relieve growing traffic congestion, and promote traffic safety; and (2) local match for any federal grants made available to the state. The amount under this paragraph must be allocated 50 percent to the department's metropolitan district, and 50 percent to districts in greater Minnesota. At least \$20,000,000 of this appropriation must be expended as provided under clause (1). This amount is in addition to existing appropriations for this purpose.

Subd. 2. **Bond sale.** To provide the money appropriated in subdivision 1 from the bond proceeds account in the trunk highway fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$40,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 167.50 to 167.52, and by the Minnesota Constitution, article XIV, section 11, at the times and in the amounts requested by the commissioner of transportation. The proceeds of the bonds, except accrued interest and any premium received from the sale of the bonds, must be deposited in the bond proceeds account in the trunk highway fund.

**Sec. 2. EFFECTIVE DATE.**

This article is effective the day following final enactment.

**ARTICLE 3**

**TRANSPORTATION FINANCE AND POLICY**

Section 1. Minnesota Statutes 2008, section 16A.152, subdivision 2, is amended to read:

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

- (1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000;
  - (2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;
  - (3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve; ~~and~~
  - (4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (b), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount; and
  - (5) to the state airports fund, the amount necessary to restore the amount transferred from the state airports fund under Laws 2008, chapter 363, article 11, section 3, subdivision 5.
- (b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.
- (c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before section 16A.1522 takes effect.
- (d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

**Sec. 2. [160.165] MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given:

- (1) "project" means construction work to maintain, construct, reconstruct, or improve a street or highway;
- (2) "substantial business impacts" means impairment of road access, parking, or visibility for one or more business establishments as a result of a project, for a minimum period of one month; and
- (3) "transportation authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; and statutory or home rule charter cities, as to city streets.

Subd. 2. **Business liaison.** (a) Before beginning construction work on a project, a transportation authority shall identify whether the project is anticipated to include substantial business impacts. For such projects, the transportation authority shall designate an individual to serve as business liaison between the transportation authority and affected businesses.

(b) The business liaison shall consult with affected businesses before and during construction to investigate means of mitigating project impacts to businesses. The mitigation considered must include signage. The business liaison shall provide information to the identified businesses before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Sec. 3. Minnesota Statutes 2008, section 161.20, subdivision 3, is amended to read:

Subd. 3. **Trunk highway fund appropriations.** The commissioner may expend trunk highway funds only for trunk highway purposes. Payment of expenses related to Bureau of Criminal Apprehension laboratory, Explore Minnesota Tourism kiosks, Minnesota Safety Council, tort claims, driver education programs, Emergency Medical Services Board, and Mississippi River Parkway Commission, and personnel costs incurred on behalf of the Governor's Office do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system.

Sec. 4. Minnesota Statutes 2008, section 162.12, subdivision 2, is amended to read:

Subd. 2. **Administrative costs.** A sum of ~~1-1/2~~ two percent shall be deducted from the total available in the municipal state-aid street fund, set aside in a separate account, and used for administration costs incurred by the state Transportation Department in carrying out the provisions relating to the municipal state-aid street system.

Sec. 5. [165.15] STILLWATER LIFT BRIDGE ENDOWMENT ACCOUNT.

Subdivision 1. **Account established.** The Stillwater lift bridge endowment account is established in the state treasury. The account may consist of appropriations made by the state of Minnesota or Wisconsin and may include federal funds. The account may also receive private contributions, gifts, or grants under section 16A.013. Any interest or profit accruing from investment of these sums is credited to the account.

Subd. 2. **Use of funds.** (a) Income derived from the investment of principal in the account may be used by the commissioner of transportation for operations and routine maintenance of the Stillwater lift bridge. No money from this account may be used for any purposes except those described in this section, and no money from this account may be transferred to any other account in the state treasury without specific legislative authorization. Any money transferred from the trunk highway fund may only be used for trunk highway purposes. For the purposes of this section:

(1) "Income" is the amount of interest on debt securities and dividends on equity securities. Any gains or losses from the sale of securities must be added to the principal of the account.

(2) "Routine maintenance" means activities that are predictable and repetitive, but not activities that would constitute major repairs or rehabilitation.

(b) Investment management fees incurred by the State Board of Investment are eligible expenses for reimbursement from the account.

(c) The commissioner of transportation has authority to approve or deny expenditures of funds in the account.

Subd. 3. **Appropriation.** Income derived from the investment of principal in the account is appropriated annually to the commissioner of transportation for the purposes described in this section.

Subd. 4. **Financial compliance.** The commissioner of transportation shall ensure that the account complies with the regulations in OMB circulars A87, Cost Principles for State, Local and Indian Tribal Governments, and A122, Cost Principles for Non-Profit Organizations, of the United States Office of Management and Budget (OMB).

Subd. 5. **Investment.** The State Board of Investment, in consultation with the commissioner of transportation, shall invest money in the account under section 11A.24.

Subd. 6. **Demolition.** If the commissioner determines, in consultation with the State Historic Preservation Office, that it is necessary to demolish the Stillwater lift bridge, the principal in the account may be spent to pay for demolition of the bridge, and is appropriated to the commissioner of transportation only for that purpose, except that only funds originally contributed by the state or federal government can be used to pay for demolition. Any money remaining in the account after demolition must be used to pay for the preservation of other historic bridges in consultation with the State Historic Preservation Office.

Subd. 7. **Audits.** The account is subject to audit by the legislative auditor.

Subd. 8. **Reports required.** The commissioner of transportation shall report annually to the chair and ranking minority member of each legislative committee with jurisdiction over transportation on the endowment account. At a minimum, the report must include detailed revenue and expenditure information.

Sec. 6. Minnesota Statutes 2008, section 168.017, subdivision 5, is amended to read:

Subd. 5. **Registration period extension for leased vehicle.** (a) Notwithstanding subdivisions 3 and 4, a person leasing for at least one year a vehicle registered under this section may obtain an extension of the motor vehicle's registration period for the unexpired portion of the lease period, for a period not to exceed 11 months beyond the expiration of the registration period.

(b) In order to obtain an extension under this subdivision a lessee must

(1) apply to the registrar on a form the registrar prescribes;

(2) submit to the registrar a copy of the lease;

(3) pay an administrative fee of \$5; and

(4) pay a tax of 1/12 of the tax for the registration period being extended for each month of the extension.

(c) On an applicant's compliance with paragraph (b) the registrar shall issue the applicant a license plate tab or sticker designating the new month of expiration of the registration. The extended registration expires on the tenth day of the month following the month designated on the tab or sticker.

(d) All fees collected under paragraph (b), clause (3), must be deposited in the vehicle services operating account under section 299A.705, subdivision 1. Taxes collected under paragraph (b),

clause (4), must be deposited in the highway user tax distribution fund.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 7. Minnesota Statutes 2008, section 168.021, subdivision 4, is amended to read:

Subd. 4. **Fees; disposition.** All fees collected from the sale of disability plates under this section must be deposited in the state treasury to the credit of the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 8. Minnesota Statutes 2008, section 168.10, subdivision 1i, is amended to read:

Subd. 1i. **Collector plate transfer.** Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of \$5, plates issued under this section may be transferred to another vehicle owned or jointly owned by the person to whom the special plates were issued or the plate may be assigned to another owner. In addition to the transfer fee a new owner must pay the \$25 tax and any fee required by section 168.12, subdivision 2a. The \$5 fee must be paid into the state treasury and credited to the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1. License plates issued under this section may not be transferred to a vehicle not eligible for the collector's vehicle license plates.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 9. Minnesota Statutes 2008, section 168.29, is amended to read:

#### **168.29 REPLACEMENT PLATES.**

(a) In the event of the defacement, loss or destruction of any number plates or validation stickers, the registrar, upon receiving and filing a sworn statement of the vehicle owner, setting forth the circumstances of the defacement, loss, destruction or theft of the number plates or validation stickers, together with any defaced plates or stickers and the payment of a fee calculated to cover the cost of replacement, shall issue a new set of plates or stickers.

(b) The registrar shall then note on the registrar's records the issue of new number plates and shall proceed in such manner as the registrar may deem advisable to cancel and call in the original plates so as to insure against their use on another motor vehicle.

(c) Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a \$1 fee. Fees collected under this section must be paid into the state treasury and credited to the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 10. Minnesota Statutes 2008, section 168.62, subdivision 3, is amended to read:

Subd. 3. **Special plates or certificate; fee; proceeds to highway user fund.** At the same time that an owner or operator of intercity buses registers them in Minnesota and obtains number plates therefor, the owner or operator shall apply for special identification plates or certificates for the remainder of that fleet of intercity buses. The registrar of motor vehicles shall design an appropriate plate or identification certificate for this purpose which shall be issued upon the payment of a fee of \$10 covering each intercity bus so identified. The proceeds of such fees shall be deposited to the credit of the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1. No intercity bus shall at any time be operated in the state of Minnesota without either Minnesota number plates or special identification plates or certificates issued as herein provided.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 11. [171.163] COMMERCIAL DRIVER'S LICENSE RECORD KEEPING.

An agency, court, or public official in Minnesota shall not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a conviction for a violation of a state or local traffic control law, except a parking violation, from appearing on the driving record of a holder of a commercial driver's license, when the violation is committed in any type of motor vehicle, or on the driving record of an individual who committed the violation in a commercial motor vehicle.

Sec. 12. Minnesota Statutes 2008, section 174.24, subdivision 1a, is amended to read:

Subd. 1a. **Transit service needs implementation plan.** The commissioner shall develop a transit service needs implementation plan that contains a goal of meeting at least 80 percent of unmet transit service needs in greater Minnesota by July 1, 2015, and meeting at least 90 percent of unmet transit service needs in greater Minnesota by July 1, 2025. The plan must include, but is not limited to, the following: an analysis of ridership and transit service needs throughout greater Minnesota; a calculation of unmet needs; an assessment of the level and type of service required to meet unmet needs; an analysis of costs and revenue options; and, a plan to reduce unmet transit service needs as specified in this subdivision. The plan must specifically address special transportation service ridership and needs. The plan must also provide that recipients of operating assistance under this section provide fixed route public transit service without charge for disabled veterans in accordance with subdivision 7. The commissioner may amend the plan as necessary, and may use all or part of the 2001 greater Minnesota public transportation plan created by the Minnesota Department of Transportation.

Sec. 13. Minnesota Statutes 2008, section 174.24, subdivision 5, is amended to read:

Subd. 5. **Method of payment, operating assistance.** Payments for operating assistance under this section must be made in the following manner:

(a) For payments made from the general fund:

- (1) 50 percent of the total contract amount in or before the first month of operation;
- (2) 40 percent of the total contract amount in or before the seventh month of operation;
- (3) 9 percent of the total contract amount in or before the 12th month of operation; and

- (4) 1 percent of the total contract amount after the final audit.
- (b) For payments made from the greater Minnesota transit account:
  - (1) 50 percent of the total contract amount in or before the seventh month of operation; and
  - (2) 50 percent of the total contract amount in or before the 11th month of operation.

Sec. 14. Minnesota Statutes 2008, section 174.24, is amended by adding a subdivision to read:

Subd. 7. **Transit service for disabled veterans.** On and after July 1, 2009, an eligible recipient of operating assistance under this section, who contracts or has contracted to provide fixed route public transit, shall provide fixed route public transit service free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

Sec. 15. Minnesota Statutes 2008, section 174.50, is amended by adding a subdivision to read:

Subd. 6c. **Fracture-critical bridges.** (a) The commissioner may make a grant to any political subdivision for replacement or rehabilitation of a fracture-critical bridge. To be eligible for a grant under this subdivision, the project must produce a bridge structure:

- (1) that is no longer classified as fracture critical, by having alternate load paths; and
- (2) whose failure of a main component will not result in the collapse of the bridge.

(b) A grant under this subdivision is subject to the procedures and criteria established under subdivisions 5 and 6.

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

Sec. 16. **[174.632] PASSENGER RAIL; COMMISSIONER'S DUTIES.**

(a) The planning, design, development, construction, operation, and maintenance of passenger rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity.

(b) The commissioner is responsible for all aspects of planning, designing, developing, constructing, equipping, operating, and maintaining passenger rail, including system planning, alternatives analysis, environmental studies, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans.

(c) The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities.

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

Sec. 17. **[174.634] PASSENGER RAIL; FUNDING.**

(a) The commissioner may apply for funding from federal, state, regional, local, and private sources to carry out the commissioner's duties in section 174.632.

(b) Section 174.88, subdivision 2, does not apply to the commissioner's performance of duties and exercise of powers under sections 174.632 to 174.636.

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

**Sec. 18. [174.636] PASSENGER RAIL; EXERCISE OF POWER.**

(a) The commissioner has all powers necessary to carry out the duties specified in section 174.632. In the exercise of those powers, the commissioner may:

(1) acquire by purchase, gift, or by eminent domain proceedings as provided by law, all land and property necessary to preserve future passenger rail corridors or to construct, maintain, and improve passenger rail corridors;

(2) let all necessary contracts as provided by law; and

(3) make agreements with and cooperate with any governmental authority or private entity to carry out statutory duties related to passenger rail.

(b) The commissioner shall consult with metropolitan planning organizations and regional rail authorities in areas where passenger rail corridors are under consideration to ensure that passenger rail services are integrated with existing rail and transit services and other transportation facilities to provide as nearly as possible connected, efficient, and integrated services.

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

Sec. 19. Minnesota Statutes 2008, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. **Deposit of revenues.** (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) From July 1, 2007, through June 30, 2008, 38.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 24 percent must be deposited in the metropolitan area transit account under section 16A.88, and 1.5 percent must be deposited in the greater Minnesota transit account under section 16A.88. The remaining money must be deposited in the general fund.

(c) From July 1, 2008, through June 30, 2009, 44.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 27.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 1.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.

~~(d) From July 1, 2009, through June 30, 2010, 50.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(d) From July 1, 2009, through June 30, 2010, 47.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater

Minnesota transit account under section 16A.88, and 16.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,000,000 must be deposited in the highway user tax distribution fund; and

(2) 1.25 percent in the greater Minnesota transit account, except that any amount in excess of \$5,000,000 must be deposited in the highway user tax distribution fund.

~~(e) From July 1, 2010, through June 30, 2011, 56.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(e) From July 1, 2010, through June 30, 2011, 54.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 6.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,750,000 must be deposited in the highway user tax distribution fund; and

(2) 0.25 percent in the greater Minnesota transit account, except that any amount in excess of \$1,250,000 must be deposited in the highway user tax distribution fund.

(f) On and after July 1, 2011, 60 percent of the money collected and received must be deposited in the highway user tax distribution fund, 36 percent must be deposited in the metropolitan area transit account under section 16A.88, and four percent must be deposited in the greater Minnesota transit account under section 16A.88.

(g) It is the intent of the legislature that the allocations under paragraph (f) remain unchanged for fiscal year 2012 and all subsequent fiscal years.

Sec. 20. Minnesota Statutes 2008, section 473.408, is amended by adding a subdivision to read:

Subd. 10. **Transit service for disabled veterans.** (a) On and after the effective date of this section, the council shall provide regular route transit, as defined in section 473.385, subdivision 1, free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

(b) The requirements under this subdivision apply to operators of regular route transit (1) receiving financial assistance under section 473.388, or (2) operating under section 473.405, subdivision 12.

Sec. 21. Laws 2008, chapter 152, article 1, section 3, subdivision 2, is amended to read:

**Subd. 2. Multimodal Systems**

46TH DAY]

MONDAY, MAY 4, 2009

3733

(a) **Transit** 0 1,700,000

This appropriation is from the general fund.  
This is a onetime appropriation.

(b) **Rail** 0 250,000

This appropriation is from the general fund for a grant to the Northstar Corridor Development Authority to fund advanced preliminary engineering, updated environmental documentation, property appraisals, park-and-ride lot construction, and negotiations with the railroad to extend commuter rail service on the Burlington Northern Santa Fe rail line between Big Lake and Rice. This is a onetime appropriation and is available until spent.

(c) **Port Development Assistance** 0 500,000

This appropriation is from the general fund for grants under Minnesota Statutes, chapter 457A. Any improvements made with the proceeds of these grants must be publicly owned. This is a onetime appropriation.

**Sec. 22. LAND USE AND PLANNING RESOURCES REPORT.**

(a) By January 15, 2011, the Metropolitan Council shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance. The report must identify and assess the effectiveness of local level and regional level land use and transportation planning strategies and processes for:

(1) reducing air pollution;

(2) mitigating congestion; and

(3) reducing costs for operation, maintenance, or improvement of infrastructure.

(b) The report must emphasize approaches that reduce or manage travel demand through land use and access to transportation options.

(c) The Metropolitan Council shall (1) identify and adapt existing information and resources that are found to be applicable to Minnesota, taking into account travel and demographic trends specific to the Twin Cities metropolitan area; and (2) collaborate with local units of government and other stakeholders interested in development and refinement of the resources.

(d) The Metropolitan Council shall submit progress reports on development and application of the land use and planning resources report to the chairs and ranking minority members of the house

of representatives and senate committees with jurisdiction over transportation policy and finance by October 15, 2009; April 15, 2010; and October 15, 2010.

(e) The Metropolitan Council may enter into a contract for up to \$375,000 with the Board of Regents of the University of Minnesota for the Center for Transportation Studies to assist in creation of the report required under this section.

**Sec. 23. PASSENGER RAIL REPORT.**

By February 1, 2010, the commissioner of transportation shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance concerning the status of passenger rail in this state. The report must be made electronically and made available in print only upon request. The report must include a summary of the current status of passenger rail projects and recommend:

- (1) a public participation process for intercity passenger rail planning;
- (2) appropriate participation and levels of review by local units of government;
- (3) future sources of funding for capital costs and operations;
- (4) definitions to distinguish passenger rail from commuter rail;
- (5) legislative changes to facilitate and improve the passenger rail planning processes and operation; and
- (6) state operating subsidy mechanisms designed to create local tax equity between communities served by passenger rail and communities served by commuter rail.

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

**Sec. 24. BUS PURCHASES.**

The Metropolitan Council, in preparing bid specifications for bus purchases, shall ensure that the specifications conform, to the greatest extent practicable, with products that are manufactured in this state.

**Sec. 25. ST. CLOUD BRIDGE SITE.**

The commissioner of transportation shall ensure that the economic impact on existing area communities is evaluated and considered in analyzing potential alternative sites and selecting potential and preferred sites for a Mississippi River crossing near St. Cloud metropolitan area.

**Sec. 26. CONVEYANCE OF LAND AND BUILDINGS.**

Notwithstanding Minnesota Statutes, section 16A.695, subdivision 3, or any other law to the contrary, the Metropolitan Council shall convey the Apple Valley Transit Station and the real property on which it is situated, located in Dakota County, to the Minnesota Valley Transit Authority for nominal consideration, in order to carry out the governmental program and public purpose for which the Apple Valley Transit Station was constructed. Any subsequent conveyance of this property by the Minnesota Valley Transit Authority is subject to Minnesota Statutes, section 16A.695, subdivision 3.

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

**Sec. 27. DISCOUNT TRANSIT PASSES PILOT PROGRAM.**

(a) The Metropolitan Council shall establish a pilot program and policies to sell transit fare media at a 50 percent discount to eligible charitable organizations for use by homeless individuals. For the purposes of this section, "eligible charitable organization" means a charitable organization described in section 501(c)(3) of the Internal Revenue Code that provides services for homeless individuals, and "homeless individuals" means homeless individuals or persons as defined in Minnesota Statutes, section 116L.361, subdivision 5. The pilot program must include: (1) an organization located in Minneapolis that provides a homeless shelter, a homeless street outreach program, and sober housing to American Indian women recovering from chemical dependency; and (2) an organization located in Minneapolis that provides transitional apartments for homeless families as well as walk-in services for single adults, including meals and a food shelf. The pilot program shall terminate March 15, 2011.

(b) By January 15, 2011, the chair of the Metropolitan Council shall prepare and submit a report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over transportation. The chair shall prepare and submit the report with existing agency staff and resources. The report must be made electronically and available in print only upon request. The report on the pilot program must include a list of sales made under this subdivision, including organization name and the volume of fare media purchased, and costs of providing the discounted service and revenue impacts in the council's transit system. The report must be prepared in consultation with representatives from the charitable organizations participating in the pilot program.

(c) Paragraphs (a) and (b) apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

**EFFECTIVE DATE.** This section is effective September 1, 2009.

**Sec. 28. DESIGN-BUILD PROJECT SELECTION COUNCIL.**

Subdivision 1. Establishment of council. A Design-Build Project Selection Council is established to select, evaluate, and support county and municipal transportation projects on the state-aid system that are conducive to use of the design-build method of contracting and to report to the legislature.

Subd. 2. Duties of council. In order to accomplish these purposes, the council shall:

- (1) review applications for participation received by the commissioner from counties and cities;
- (2) select for participation in the pilot program a maximum of 15 projects on the state-aid system, no more than ten of which may be on the county state-aid highway system, and no more than ten of which may be on the municipal state-aid street system;
- (3) determine that the use of design-build in the selected projects would serve the public interest, after considering, at a minimum:
  - (i) the extent to which the municipality can adequately define the project requirements in a proposed scope of the design and construction desired;

- (ii) the time constraints for delivery of the project;
- (iii) the capability of potential contractors with the design-build method of project delivery;
- (iv) the suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors;
- (v) the capability of the municipality to manage the project, including the employment of experienced personnel or outside consultants; and
- (vi) the original character of the product or the services;
- (4) periodically review and evaluate the use of design-build in the selected projects; and
- (5) assist the commissioner in preparing a report to the legislature at the conclusion of the pilot program.

Subd. 3. **Membership.** (a) The council is composed of the following members:

- (1) two contractors, at least one of whom represents a small contracting firm, selected by the Associated General Contractors, Minnesota chapter;
- (2) two project designers selected by the American Council of Engineering Companies, Minnesota chapter;
- (3) one representative of a metropolitan area county selected by the Association of Minnesota Counties;
- (4) one representative of a greater Minnesota county selected by the Association of Minnesota Counties;
- (5) one representative of a metropolitan area city selected by the League of Minnesota Cities;
- (6) one representative of a greater Minnesota city selected by the League of Minnesota Cities;  
and
- (7) the commissioner of transportation or a designee from the Minnesota Department of Transportation Division of State Aid for Local Transportation.

(b) All appointments required by paragraph (a) must be completed by August 1, 2009.

(c) The commissioner or the commissioner's designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council and shall serve as chair of the council.

Subd. 4. **Report to legislature.** Annually, by January 15, the council shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation budget and policy, and to the legislature as provided under Minnesota Statutes, section 15.059. The report must summarize the design-build pilot program selection process, including the number of applications considered; the proposal process for each project that was selected; the contracting process for each project that was completed; and project costs. The report must evaluate the process and results applying the performance-based measures with which the commissioner evaluates trunk highway design-build projects. The report must include any

recommendations for future legislation.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first.

Sec. 29. **DESIGN-BUILD CONTRACTING PILOT PROGRAM.**

Subdivision 1. **Definitions.** The following terms have the meanings given:

(1) "commissioner" means the commissioner of transportation;

(2) "municipality" means a county or statutory or home rule charter city;

(3) "design-build contract" means a single contract between a municipality and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for the transportation project;

(4) "design-build firm" means a proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation, or any legal entity;

(5) "design professional" means a person who holds a license under Minnesota Statutes, chapter 326B, that is required to be registered under Minnesota law;

(6) "design-build transportation project" means the procurement of both the design and construction of a transportation project in a single contract with a company or companies capable of providing the necessary engineering services and construction;

(7) "design-builder" means the design-build firm that proposes to design and build a transportation project governed by the procedures of this section;

(8) "request for proposals" or "RFP" means the document by which the municipality solicits proposals from qualified design-build firms to design and construct the transportation project;

(9) "request for qualifications" or "RFQ" means a document to qualify potential design-build firms; and

(10) "responsive proposal" means a technical proposal of which no major component (i) contradicts the goals of the project, (ii) materially violates an RFP requirement so as to give the proposer a competitive advantage, or (iii) places conditions on a proposal inconsistent with the requirements of the RFP.

Subd. 2. **Establishment of pilot program.** (a) The commissioner of transportation shall conduct a design-build contracting pilot program to select local transportation projects for participation in the program, to conduct information sessions for engineers and contractors, to support and evaluate the use of the design-build method of contracting by counties and statutory and home rule charter cities in constructing, improving, and maintaining streets and highways on the state-aid system, and to report to the legislature.

(b) The selection of design-build projects under the pilot program must be as made by the Design-Build Project Selection Council established in section 28.

Subd. 3. **Licensing requirements.** (a) Each design-builder shall employ, or have as a partner, member, officer, coventurer, or subcontractor, a person duly licensed and registered to provide the design services required to complete the project and do business in the state, including the provision of sureties of sufficient amount to protect the interests of the awarding municipality.

(b) A design-builder may enter into a contract to provide professional or construction services for a project that the design-builder is not licensed, registered, or qualified to perform, so long as the design-builder provides those services through subcontractors with duly licensed, registered, or otherwise qualified individuals in accordance with Minnesota Statutes, sections 161.3410 to 161.3428.

(c) Nothing in this section authorizing design-build contracts is intended to limit or eliminate the responsibility or liability owed by a professional on a design-build project to the state, municipality, or other third party under existing law.

(d) The design service portion of a design-build contract must be considered a service and not a product.

Subd. 4. **Information session for municipal engineer.** After a project is selected for participation in the design-build contracting pilot program, the commissioner or the commissioner's designee with design-build experience shall conduct an information session for the municipality's engineer for each selected project, in which issues unique to design-build must be discussed, including, but not limited to, writing an RFP, project oversight requirements, assessing risk, and communication with the design-build firm. After participation in the information session, the municipality's engineer is qualified to post the selected project, along with any future design-build project RFP in the pilot program.

Subd. 5. **Technical Review Committee.** During the phase one RFQ and before solicitation, the municipality shall appoint a Technical Review Committee of at least five individuals. The Technical Review Committee must include an individual whose name and qualifications are submitted to the municipality by the Minnesota chapter of the Associated General Contractors, after consultation with other commercial contractor associations in the state. Members of the Technical Review Committee who are not state employees are subject to the Minnesota Government Data Practices Act and Minnesota Statutes, section 16C.06, to the same extent that state agencies are subject to those provisions. A Technical Review Committee member may not participate in the review or discussion of responses to the RFQ or RFP when a design-build firm in which the member has a financial interest has responded to the RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm. The members of the Technical Review Committee must be treated as municipal employees in the event of litigation resulting from any action arising out of their service on the committee.

Subd. 6. **Phase one; design-build RFQ.** The municipality shall prepare an RFQ, which must include the following:

(1) the minimum qualifications of design-builders necessary to meet the requirements for acceptance;

(2) a scope of work statement and schedule;

- (3) documents defining the project requirements;
- (4) the form of contract to be awarded;
- (5) the weighted selection criteria for compiling a short list and the number of firms to be included in the short list, which must be at least two but not more than five;
- (6) a description of the request for proposals (RFP) requirements;
- (7) the maximum time allowed for design and construction;
- (8) the municipality's estimated cost of design and construction;
- (9) requirements for construction experience, design experience, financial, personnel, and equipment resources available from potential design-builders for the project and experience in other design-build transportation projects or similar projects, provided that these requirements may not unduly restrict competition; and
- (10) a statement that "past performance" or "experience" or other criteria used in the RFQ evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 7. **Information session for prospective design-build firms.** After a design-build project is advertised, any prospective design-build firm shall attend a design-build information session conducted by the commissioner or the commissioner's designee with design-build experience. The information must include information about design-build contracts, including, but not limited to, communication with partner firms, project oversight requirements, assessing risk, and communication with the municipality's engineer. After participation in the information session, the design-build firm is eligible to bid on the design-build project and any future design-build pilot program projects.

Subd. 8. **Evaluation.** The selection team shall evaluate the design-build qualifications of responding firms and shall compile a short list of no more than five most highly qualified firms in accordance with qualifications criteria described in the RFQ. If only one design-build firm responds to the RFQ or remains on the short list, the municipality may readvertise or cancel the project as the municipality deems necessary.

Subd. 9. **Phase two; design-build RFP.** The municipality shall prepare an RFP, which must include:

- (1) the scope of work, including (i) performance and technical requirements, (ii) conceptual design, (iii) specifications consistent with state standards and specifications, and (iv) functional and operational elements for the delivery of the completed project, all of which must be prepared by a registered or licensed professional engineer;
- (2) copies of the contract documents that the successful proposer will be expected to sign;
- (3) the maximum time allowable for design and construction;
- (4) the road authority's estimated cost of design and construction;
- (5) the requirement that a submitted proposal be segmented into two parts, a technical proposal and a price proposal;

(6) the requirement that each proposal be in a separately sealed, clearly identified package and include the date and time of the submittal deadline;

(7) the requirement that the technical proposal include a critical path method, bar schedule of the work to be performed, or similar schematic; preliminary design plans and specifications; technical reports; calculations; permit requirements; applicable development fees; and other data requested in the RFP;

(8) the requirement that the price proposal contain all design, construction, engineering, inspection, and construction costs of the proposed project;

(9) the requirement that surety be submitted equal to the total amount of the proposal;

(10) a description of the qualifications required of the design-builder and the selection criteria, including the weight of each criterion and subcriterion;

(11) the date, time, and location of the public opening of the sealed price proposals;

(12) the amount of, and eligibility for, a stipulated fee;

(13) other information relevant to the project; and

(14) a statement that "past performance," "experience," or other criteria used in the RFP evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 10. **Design-build award; computation; announcement.** A design-build contract shall be awarded as follows:

(a) The Technical Review Committee shall score the technical proposals of the proposers selected under subdivision 8 using the selection criteria in the RFP. The Technical Review Committee shall then submit a technical proposal score for each design-builder to the municipality. The Technical Review Committee shall reject any nonresponsive proposal, including those unable to provide sufficient surety to guarantee project completion. The municipality shall review the technical proposal scores.

(b) The commissioner or the commissioner's designee shall review the technical proposal scores. The commissioner shall submit the final technical proposal scores to the municipality.

(c) The municipality shall announce the technical proposal score for each design-builder and shall publicly open the sealed price proposals and shall divide each design-builder's price by the technical score that the commissioner has given to it to obtain an adjusted score. The design-builder selected must be that responsive and responsible design-builder whose adjusted score is the lowest.

(d) If a time factor is included with the selection criteria in the RFP package, the municipality may use a value of the time factor established by the municipality as a criterion in the RFP.

(e) Unless all proposals are rejected, the municipality shall award the contract to the responsive and responsible design-builder with the lowest adjusted score. The municipality shall reserve the right to reject all proposals.

(f) The municipality shall award a stipulated fee not less than two-tenths of one percent of the municipality's estimated cost of design and construction to each short-listed, responsible

proposer who provides a responsive but unsuccessful proposal. If the municipality does not award a contract, all short-listed proposers must receive the stipulated fee. If the municipality cancels the contract before reviewing the technical proposals, the municipality shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the municipality's estimated cost of design and construction. The municipality shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the municipality may use any ideas or information contained in the proposals in connection with any contract awarded for the project or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the municipality may not use ideas and information contained in that proposer's proposal. Upon the request of the municipality, a proposer who waived a stipulated fee may withdraw the waiver, in which case the municipality shall pay the stipulated fee to the proposer and thereafter may use ideas and information in the proposer's proposal.

(g) The municipality shall not limit the ability of design-builders that have submitted proposals to protest a contemplated or actual award by the commissioner by, among other things, unreasonably restricting the time to protest; restricting the right to seek judicial review of the commissioner's actions; attempting to change the judicial standard of review; or requiring the protestor to pay attorney fees for an unsuccessful, nonfrivolous protest. Unless all design-builders that have submitted proposals agree to execution of a contract for the project without a waiting period beforehand, the municipality shall wait at least seven days after both the award of the project and public disclosure of the Technical Review Committee's scoring data and the successful proposal before executing a contract for the project.

Subd. 11. **Low-bid design-build process.** (a) The municipality may also use low-bid, design-build procedures to award a design-build contract where the scope of the work can be clearly defined.

(b) Low-bid design-build projects may require an RFQ and short-listing, and must require an RFP.

(c) Submitted proposals under this subdivision must include separately a technical proposal and a price proposal. The low-bid, design-build procedures must follow a two-step process for review of the responses to the RFP as follows:

(1) the first step is the review of the technical proposal by the Technical Review Committee as provided in subdivision 5. The Technical Review Committee must open the technical proposal first and must determine if it complies with the requirements of the RFP and is responsive. The Technical Review Committee may not perform any ranking or scoring of the technical proposals; and

(2) the second step is the determination of the low bidder based on the price proposal. The municipality may not open the price proposal until the review of the technical proposal is complete.

(d) The contract award under low-bid, design-build procedures must be made to the proposer whose sealed bid is responsive to the technical requirements as determined by the Technical Review Committee and that is also the lowest bid.

(e) A stipulated fee may be paid for unsuccessful bids on low-bid, design-build projects only

when the municipality has required an RFQ and short-listed the most highly qualified responsive bidders.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first."

Delete the title and insert:

"A bill for an act relating to transportation; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers, contingent appropriations, and tort claims; modifying previous appropriations; authorizing sale of trunk highway bonds; modifying various provisions related to transportation finance and policy; providing for and modifying disposition of various fees, revenues, and accounts; clarifying appropriate uses of trunk highway fund; providing for mitigation of transportation construction impacts on business; increasing set-aside from municipal state-aid fund for administrative costs; establishing Stillwater lift bridge endowment account; regulating records of commercial drivers; modifying provisions related to transit services, fracture-critical bridges, passenger rail, and motor vehicle sales tax revenue allocations; establishing discount transit passes pilot program; authorizing Metropolitan Council to convey certain real property including the Apple Valley Transit Station; establishing Design-Build Project Selection Council and pilot program; adding provisions relating to bus purchases and a Mississippi River crossing near St. Cloud; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2; 161.20, subdivision 3; 162.12, subdivision 2; 168.017, subdivision 5; 168.021, subdivision 4; 168.10, subdivision 1i; 168.29; 168.62, subdivision 3; 174.24, subdivisions 1a, 5, by adding a subdivision; 174.50, by adding a subdivision; 297B.09, subdivision 1; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, sections 3, subdivision 2; 5; proposing coding for new law in Minnesota Statutes, chapters 160; 165; 171; 174."

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

House Conferees: (Signed) Bernard Lieder, Frank Hornstein, Terry Morrow, Melissa Hortman, Michael Beard

Senate Conferees: (Signed) Steve Murphy, Jim Carlson, Michael Jungbauer, Rick Olseen

### **CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on H.F. No. 1309. The Sergeant at Arms was instructed to bring in the absent members.

Senator Murphy moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1309 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1309 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olson, G.	Sheran
Bakk	Erickson Ropes	Koering	Olson, M.	Sieben
Berglin	Fischbach	Kubly	Pappas	Skoe
Betzold	Fobbe	Langseth	Pariseau	Skogen
Bonoff	Foley	Latz	Pogemiller	Sparks
Carlson	Frederickson	Lourey	Prettner Solon	Stumpf
Chaudhary	Gerlach	Lynch	Robling	Tomassoni
Clark	Gimse	Marty	Rosen	Torres Ray
Cohen	Hann	Metzen	Rummel	Vandever
Dahle	Higgins	Michel	Saltzman	Vickerman
Day	Johnson	Moua	Saxhaug	Wiger
Dibble	Jungbauer	Murphy	Scheid	
Dille	Kelash	Olseen	Senjem	

Those who voted in the negative were:

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

### **RECESS**

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

### **CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate for the balance of today's proceedings. The Sergeant at Arms was instructed to bring in the absent members.

### **CONFERENCE COMMITTEE EXCUSED**

Pursuant to Rule 12, Senator Higgins moved that the following members be excused for a Conference Committee on S.F. No. 802 at 6:55 p.m.:

Senators Higgins, Foley, Moua, Latz and Olson, M. The motion prevailed.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

### **SUSPENSION OF RULES**

Senator Pogemiller moved that Joint Rule 2.06 be suspended as it relates to the Conference Committee Report on S.F. No 2081. The motion prevailed.

S.F. No. 2081 and the Conference Committee Report thereon were reported to the Senate.

**CONFERENCE COMMITTEE REPORT ON S.F. NO. 2081**

A bill for an act relating to economic development and housing; establishing and modifying certain programs; providing for regulation of certain activities and practices; amending certain unemployment insurance provisions; providing for accounts, assessments, and fees; changing codes and licensing provisions; amending Iron Range resources provisions; regulating debt management and debt settlement services; increasing certain occupation license fees; making technical changes; providing penalties; appropriating money; amending Minnesota Statutes 2008, sections 15.75, subdivision 5; 16B.54, subdivision 2; 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 84.94, subdivision 3; 115C.08, subdivision 4; 116J.035, subdivisions 1, 6; 116J.401, subdivision 2; 116J.424; 116J.435, subdivisions 2, 3; 116J.68, subdivision 2; 116J.8731, subdivisions 2, 3; 116L.03, subdivision 5; 116L.05, subdivision 5; 116L.871, subdivision 1; 116L.96; 123A.08, subdivision 1; 124D.49, subdivision 3; 129D.13, subdivisions 1, 2, 3; 129D.14, subdivisions 4, 5, 6; 129D.155; 154.44, subdivision 1; 160.16, by adding a subdivision; 160.276, subdivision 8; 241.27, subdivision 1; 248.061, subdivision 3; 248.07, subdivisions 7, 8; 256J.626, subdivision 4; 256J.66, subdivision 1; 268.031; 268.035, subdivisions 2, 17, by adding subdivisions; 268.042, subdivision 3; 268.043; 268.044, subdivision 2; 268.047, subdivisions 1, 2; 268.051, subdivisions 1, 4; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivisions 4, 5; 268.0625, subdivision 1; 268.066; 268.067; 268.069, subdivision 1; 268.07, subdivisions 1, 2, 3, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 15; 268.095, subdivisions 1, 2, 4, 10, 11; 268.101, subdivisions 1, 2; 268.103, subdivision 1, by adding a subdivision; 268.105, subdivisions 1, 2, 3a, 4; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivision 4; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 4a; 268.186; 268.196, subdivisions 1, 2; 268.199; 268.211; 268A.06, subdivision 1; 270.97; 298.22, subdivisions 2, 5a, 6, 7, 8, 10, 11; 298.221; 298.2211, subdivision 3; 298.2213, subdivision 4; 298.2214, by adding a subdivision; 298.223; 298.227; 298.28, subdivision 9d; 298.292, subdivision 2; 298.294; 298.296, subdivision 2; 298.2961; 325E.115, subdivision 1; 325E.1151, subdivisions 1, 3, 4; 325E.311, subdivision 6; 326B.33, subdivisions 13, 19; 326B.46, subdivision 4; 326B.475, subdivisions 4, 7; 326B.49, subdivision 1; 326B.56, subdivision 4; 326B.58; 326B.815, subdivision 1; 326B.821, subdivision 2; 326B.86, subdivision 1; 326B.885, subdivision 2; 326B.89, subdivisions 3, 16; 326B.94, subdivision 4; 326B.972; 326B.986, subdivisions 2, 5, 8; 327B.04, subdivisions 7, 8, by adding a subdivision; 327C.03, by adding a subdivision; 327C.095, subdivision 12; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 469.169, subdivision 3; Laws 1998, chapter 404, section 23, subdivision 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 1; 116J; 137; 161; 268; 298; 326B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; 116U.65; 129D.13, subdivision 4; 176.135, subdivision 1b; 268.085, subdivision 14; 268.086; Minnesota Rules, part 1350.8300.

May 3, 2009

The Honorable James P. Metzen  
President of the Senate

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2081 report that we have agreed upon the items in

dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2081 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**JOBS AND ECONOMIC DEVELOPMENT APPROPRIATIONS**

Section 1. **JOBS AND ECONOMIC DEVELOPMENT APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>133,947,000</u>	\$ <u>133,136,000</u>	<u>267,083,000</u>
<u>Workforce Development</u>	<u>17,976,000</u>	<u>17,876,000</u>	<u>35,852,000</u>
<u>Remediation</u>	<u>700,000</u>	<u>700,000</u>	<u>1,400,000</u>
<u>Workers' Compensation</u>	<u>22,574,000</u>	<u>22,574,000</u>	<u>45,148,000</u>
<b><u>Total</u></b>	<b>\$ <u>175,197,000</u></b>	<b>\$ <u>174,286,000</u></b>	<b><u>349,483,000</u></b>

Sec. 2. **JOBS AND ECONOMIC DEVELOPMENT.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2010**                      **2011**

Sec. 3. **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**

Subdivision 1. **Total Appropriation**                      \$        **58,277,000** \$        **57,877,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>40,630,000</u>	<u>40,330,000</u>
<u>Remediation</u>	<u>700,000</u>	<u>700,000</u>

<u>Workforce Development</u>	<u>16,947,000</u>	<u>16,847,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. <b>Business and Community Development</b></u>	<u>8,980,000</u>	<u>8,980,000</u>
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Appropriations by Fund

<u>General</u>	<u>7,941,000</u>	<u>7,941,000</u>
<u>Remediation</u>	<u>700,000</u>	<u>700,000</u>
<u>Workforce Development</u>	<u>339,000</u>	<u>339,000</u>

(a) \$700,000 the first year and \$700,000 the second year are from the remediation fund for contaminated site cleanup and development grants under Minnesota Statutes, section 116J.554. This appropriation is available until expended.

(b) \$200,000 each year is from the general fund for a grant to WomenVenture for women's business development programs and for programs that encourage and assist women to enter nontraditional careers in the trades; manual and technical occupations; science, technology, engineering, and mathematics-related occupations; and green jobs. This appropriation may be matched dollar for dollar with any resources available from the federal government for these purposes with priority given to initiatives that have a goal of increasing by at least ten percent the number of women in occupations where women currently comprise less than 25 percent of the workforce. The appropriation is available until expended.

(c) \$105,000 each year is from the general fund and \$50,000 each year is from the workforce development fund for a grant to the Metropolitan Economic Development Association for continuing minority business development programs in the metropolitan area. This appropriation must be used for the sole purpose of providing free or reduced fee business consulting services to minority

entrepreneurs and contractors.

(d)(1) \$500,000 each year is from the general fund for a grant to BioBusiness Alliance of Minnesota for bioscience business development programs to promote and position the state as a global leader in bioscience business activities. This appropriation is added to the department's base. These funds may be used to create, recruit, retain, and expand biobusiness activity in Minnesota; implement the destination 2025 statewide plan; update a statewide assessment of the bioscience industry and the competitive position of Minnesota-based bioscience businesses relative to other states and other nations; and develop and implement business and scenario-planning models to create, recruit, retain, and expand biobusiness activity in Minnesota.

(2) The BioBusiness Alliance must report each year by February 15 to the committees of the house of representatives and the senate having jurisdiction over bioscience industry activity in Minnesota on the use of funds; the number of bioscience businesses and jobs created, recruited, retained, or expanded in the state since the last reporting period; the competitive position of the biobusiness industry; and utilization rates and results of the business and scenario-planning models and outcomes resulting from utilization of the business and scenario-planning models.

(e)(1) Of the money available in the Minnesota Investment Fund, Minnesota Statutes, section 116J.8731, to the commissioner of the Department of Employment and Economic Development, up to \$3,000,000 is appropriated in fiscal year 2010 for a loan to an aircraft manufacturing and assembly company, associated with the aerospace industry, for equipment utilized to establish an aircraft completion center at the Minneapolis-St. Paul International Airport. The finishing center must use the

state's vocational training programs designed specifically for aircraft maintenance training, and to the extent possible, work to recruit employees from these programs. The center must create at least 200 new manufacturing jobs within 24 months of receiving the loan, and create not less than 500 new manufacturing jobs over a five-year period in Minnesota.

(2) This loan is not subject to loan limitations under Minnesota Statutes, section 116J.8731, subdivision 5. Any match requirements under Minnesota Statutes, section 116J.8731, subdivision 3, may be made from current resources. This is a onetime appropriation and is effective the day following final enactment.

(f) \$65,000 each year is from the general fund for a grant to the Minnesota Inventors Congress, of which at least \$6,500 must be used for youth inventors.

(g) \$200,000 the first year and \$200,000 the second year are for the Office of Science and Technology. This is a onetime appropriation.

(h) \$500,000 the first year and \$500,000 the second year are for a grant to Enterprise Minnesota, Inc., for the small business growth acceleration program under Minnesota Statutes, section 116O.115. This is a onetime appropriation and is available until expended.

(i)(1) \$100,000 each year is from the workforce development fund for a grant under Minnesota Statutes, section 116J.421, to the Rural Policy and Development Center at St. Peter, Minnesota. The grant shall be used for research and policy analysis on emerging economic and social issues in rural Minnesota, to serve as a policy resource center for rural Minnesota communities, to encourage collaboration across higher education institutions, to provide interdisciplinary team approaches to research and problem-solving in rural communities, and to administer overall operations of the center.

(2) The grant shall be provided upon the condition that each state-appropriated dollar be matched with a nonstate dollar. Acceptable matching funds are nonstate contributions that the center has received and have not been used to match previous state grants. Any funds not spent the first year are available the second year.

(j) Notwithstanding Minnesota Statutes, section 268.18, subdivision 2, \$414,000 of funds collected for unemployment insurance administration under this subdivision is appropriated as follows: \$250,000 to Lake County for ice storm damage; \$64,000 is for the city of Green Isle for reimbursement of fire relief efforts and other expenses incurred as a result of the fire in the city of Green Isle; and \$100,000 is to develop the construction mitigation pilot program to make grants for up to five projects statewide available to local government units to mitigate the impacts of transportation construction on local small business. These are onetime appropriations and are available until expended.

(k) Up to \$10,000,000 is appropriated from the Minnesota minerals 21st century fund to the commissioner of Iron Range resources and rehabilitation to make a grant or forgivable loan to a manufacturer of windmill blades at a facility to be located within the taconite tax relief area defined in Minnesota Statutes, section 273.134.

(l) \$1,000,000 is appropriated from the Minnesota minerals 21st century fund to the Board of Trustees of the Minnesota State Colleges and Universities for a grant to the Northeast Higher Education District for planning, design, and construction of classrooms and housing facilities for upper division students in the engineering program.

(m)(1) \$189,000 each year is appropriated from the workforce development fund for grants of \$63,000 to eligible organizations each year to assist in the development of

entrepreneurs and small businesses. Each state grant dollar must be matched with \$1 of nonstate funds. Any balance in the first year does not cancel but is available in the second year.

(2) Three grants must be awarded to continue or to develop a program. One grant must be awarded to the Riverbend Center for Entrepreneurial Facilitation in Blue Earth County, and two to other organizations serving Faribault and Martin Counties. Grant recipients must report to the commissioner by February 1 of each year that the organization receives a grant with the number of customers served; the number of businesses started, stabilized, or expanded; the number of jobs created and retained; and business success rates. The commissioner must report to the house of representatives and senate committees with jurisdiction over economic development finance on the effectiveness of these programs for assisting in the development of entrepreneurs and small businesses.

<b>Subd. 3. <u>Workforce Development</u></b>	<u>46,871,000</u>	<u>46,471,000</u>
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Appropriations by Fund

<u>General</u>	<u>30,263,000</u>	<u>29,963,000</u>
<u>Workforce Development</u>	<u>16,608,000</u>	<u>16,508,000</u>

(a) \$4,562,000 each year is from the general fund for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17. If the appropriation for either year is insufficient, the appropriation for the other year is available. This appropriation is available until spent.

(b) \$8,800,000 each year is from the general fund for the state's vocational rehabilitation program under Minnesota Statutes, chapter 268A.

(c) \$5,986,000 each year is from the general fund for the state services for the blind activities.

(d) \$2,380,000 each year is from the general fund for grants to centers for independent living under Minnesota Statutes, section 268A.11.

(e) \$350,000 each year is from the general fund and \$105,000 each year is from the workforce development fund for a grant under Minnesota Statutes, section 116J.8747, to Twin Cities RISE! to provide training to hard-to-train individuals. Funds unexpended in the first year are available for expenditure in the second year.

(f) \$150,000 each year is from the general fund and \$50,000 each year is from the workforce development fund for a grant to Northern Connections in Perham to implement and operate a workforce program that provides one-stop supportive services to individuals as they transition into the workforce.

(g) \$100,000 each year is from the workforce development fund for a grant to the Ramsey County Workforce Investment Board for the development of the building lives program. This is a onetime appropriation.

(h) \$150,000 each year is from the general fund for a grant to Advocating Change Together for training, technical assistance, and resource materials for persons with developmental and mental illness disabilities.

(i) \$5,627,000 each year is from the general fund and \$6,830,000 each year is from the workforce development fund for extended employment services for persons with severe disabilities or related conditions under Minnesota Statutes, section 268A.15. Of the general fund appropriation, \$125,000 each year is to supplement funds paid for wage incentives for the community support fund established in Minnesota Rules, part 3300.2045.

(j) \$250,000 the first year and \$100,000 the second year are for grants to Minnesota

Diversified Industries, Inc., to provide progressive development and employment opportunities for people with disabilities. This appropriation is available in either year of the biennium. The budget base for Minnesota Diversified Industries, Inc., is \$175,000 each year in the 2012-2013 biennium.

(k) Of the money available to Minnesota from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and allocated to the Department of Employment and Economic Development for activities authorized under Title 1 of the Rehabilitation Act of 1973 as amended and Code of Federal Regulations, title 34, part 361, of its implementing regulations, \$250,000 is for a grant to Minnesota Diversified Industries, Inc. to assist individuals with disabilities to obtain employment outcomes as defined in Code of Federal Regulations, title 34, part 361.5 (B) (16). Funds expended must be used for activities allowed under section 103 (a) of the Rehabilitation Act and Code of Federal Regulations, title 34, part 361.48.

(l) \$1,613,000 each year is from the general fund for grants to programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14. Grants may be used for special projects for young people with mental illness transitioning from school to work and people with serious mental illness receiving services through a mental health court or civil commitment court. Special projects must demonstrate interagency collaboration. Up to \$77,000 each year may be used for administrative expenses.

(m) \$75,000 each year is from the workforce development fund for a grant to MN WORKS!, a nonprofit organization. The nonprofit organization must work on behalf of all licensed vendors to coordinate their efforts to respond to solicitations or other

requests from private and governmental units as defined in Minnesota Statutes, section 471.59, subdivision 1, in order to increase employment opportunities for persons with disabilities. This is a onetime appropriation and is available in either year of the biennium. Any funds unexpended in the first year are available for expenditure in the second year.

(n) \$145,000 each year is from the general fund and \$175,000 each year is from the workforce development fund for a grant under Minnesota Statutes, section 268A.03, to Rise, Inc. for the Minnesota Employment Center for People Who are Deaf or Hard of Hearing. Money not expended the first year is available the second year.

(o) \$100,000 each year is from the general fund and \$200,000 each year is from the workforce development fund for a grant to Lifetrack Resources for its immigrant and refugee collaborative program, including those related to job-seeking skills and workplace orientation, intensive job development, functional work English, and on-site job coaching. This appropriation may also be used in Rochester.

(p) \$3,500,000 each year is from the workforce development fund for the Minnesota youth program under Minnesota Statutes, sections 116L.56 and 116L.561.

(q) \$1,375,000 each year is from the workforce development fund for the Opportunities Industrialization Center programs.

(r) \$1,200,000 each year is from the workforce development fund for grants for the Minneapolis summer youth employment program. The grants shall be used to fund up to 500 jobs for youth each summer. Of this appropriation, \$300,000 each year is for a grant to the learn-to-earn summer youth employment program. The commissioner shall establish criteria for awarding the grants. This appropriation is available in either year

of the biennium and is available until spent.

(s) \$750,000 each year is from the workforce development fund for a grant to the Minnesota Alliance of Boys and Girls Clubs to administer a statewide project of youth jobs skills development. This project, which may have career guidance components, including health and life skills, is to encourage, train, and assist youth in job-seeking skills, workplace orientation, and job-site knowledge through coaching. This grant requires a 25 percent match from nonstate resources.

(t) \$558,000 the first year and \$558,000 the second year are from the workforce development fund for grants to fund summer youth employment in St. Paul. The grants shall be used to fund up to 500 jobs for youth each summer. The commissioner shall establish criteria for awarding the grants. This appropriation is available in either year of the biennium and is available until spent.

(u) \$1,000,000 each year is from the workforce development fund for the youthbuild program under Minnesota Statutes, sections 116L.361 to 116L.366.

(v) \$100,000 each year is from the workforce development fund for grants for the indigenous earthkeepers program for American Indian youth environmental education and training. Funds must be used to provide programming for up to 80 American Indian youth ages 14 to 19. The indigenous earthkeepers program must use the environment, with native language as its primary core, to develop student academic skills and knowledge at Center School and Healthy Nations Program of the Minneapolis American Indian Center. The program must foster a sense of civic and environmental responsibility by providing youth the opportunity to serve on small, natural, and urban resource crews in the Twin Cities metropolitan area and outside

of the metropolitan area. In addition, it must build the capacity of these youths to improve their lives in an indigenous-inspired and culturally relevant manner. At a minimum, the program curriculum must include water studies, identification of waterway cleanup sites, cleanup of waterways significant to indigenous culture and education, plant identification, gardening, and indigenous language components. This is a onetime appropriation and is available until expended.

(w) \$340,000 each year is from the workforce development fund for grants to provide interpreters for a regional transition program that specializes in providing culturally appropriate transition services leading to employment for deaf, hard-of-hearing, and deaf-blind students.

(x) \$150,000 the first year is for a grant to Lutheran Social Service of Minnesota to increase capacity statewide for budget and debt counseling, debt management planning, and other debt management services. This is a onetime appropriation and is available until expended.

(y) The first \$1,450,000 deposited in each year of the biennium into the contingent account created under Minnesota Statutes, section 268.199, shall be transferred before the closing of each fiscal year to the workforce development fund created under Minnesota Statutes, section 116L.20. Deposits in excess of \$1,450,000 shall be transferred before the closing of each fiscal year to the general fund.

(z) \$100,000 the first year is from the workforce development fund for a grant to a Southeast Asian mutual assistance nonprofit organization for an intensive intervention transitional employment training project to move refugee and immigrant welfare recipients into unsubsidized employment leading to economic self-sufficiency. An organization may apply for a grant in the form and manner established by the commissioner

of employment and economic development. The organization that is awarded the grant must have experience providing the services required under this paragraph. The primary effort must be on intensive employment skills training, including workplace English and overcoming cultural barriers, and on specialized training in fields of work which involve a credit-based curriculum. For recipients without a high school diploma or a GED, extra effort shall be made to help the recipient meet the ability to benefit test so the recipient can receive financial aid for further training. During the specialized training, efforts should be made to involve the recipients with an internship program and retention specialist. This appropriation is not available until the commissioner of finance has determined that at least an equal amount has been committed from nonstate funds. This is a onetime appropriation and is available until expended.

(aa) \$1,000,000 each year is from reserve funds allocated to the Department of Employment and Economic Development under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for Workforce Investment Act adult and displaced worker programs for on-the-job training for eligible persons in counties with high unemployment. This is a onetime appropriation.

(bb)(1) \$150,000 each year is from the workforce development fund for a grant to the nonprofit organization selected to administer the demonstration project for high-risk adults under Laws 2007, chapter 54, article 1, section 19, in order to continue the project for a second biennium. This is a onetime appropriation and is available until expended.

(2) The commissioners of the Housing Finance Agency and employment and economic development are directed to work with the commissioner of public safety to seek federal stimulus money available

through the Office of Justice to continue the demonstration project under Laws 2007, chapter 54, article 1, section 19, at a level sufficient to reduce the rate per participant.

(cc) All Wagner-Peyser funds available to the state for job seeker services under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, must be allocated to workforce development centers for universal job seeker services.

(dd)(1) All Workforce Investment Act discretionary funds available to the commissioner for workforce development under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, must first be allocated to replace reductions in state general fund or workforce development fund resources for employment and training or youth programs.

(2) The commissioner shall not use any unallocated discretionary funds available to the department under the American Recovery and Reinvestment Act, Public Law 111-5, to hire full-time or part-time staff or enter into professional or technical contracts for any purpose other than administration of the unemployment insurance program or to provide services to job seekers, including assistance in filing for unemployment benefits.

<u>Subd. 4. <b>State-Funded Administration</b></u>	<u>2,426,000</u>	<u>2,426,000</u>
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The transfer of funds to the governor's office for the Washington, D.C. office function is \$20,000 each year.

<u>Sec. 4. <b>PUBLIC FACILITIES AUTHORITY</b></u>	<u>\$ 93,000</u>	<u>\$ 93,000</u>
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For the small community wastewater treatment program under Minnesota Statutes, chapter 446A.

<u>Sec. 5. <b>EXPLORE MINNESOTA TOURISM</b></u>	<u>\$ 10,717,000</u>	<u>\$ 10,717,000</u>
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(a) Of this amount, \$12,000 each year is for a

grant to the Upper Minnesota Film Office.

(b)(1) To develop maximum private sector involvement in tourism, \$500,000 the first year and \$500,000 the second year must be matched by Explore Minnesota Tourism from nonstate sources. Each \$1 of state incentive must be matched with \$3 of private sector funding. Cash match is defined as revenue to the state or documented cash expenditures directly expended to support Explore Minnesota Tourism programs. Up to one-half of the private sector contribution may be in-kind or soft match. The incentive in the first year shall be based on fiscal year 2009 private sector contributions. The incentive in the second year will be based on fiscal year 2010 private sector contributions. This incentive is ongoing.

(2) Funding for the marketing grants is available either year of the biennium. Unexpended grant funds from the first year are available in the second year.

(3) Unexpended money from the general fund appropriations made under this section does not cancel but must be placed in a special marketing account for use by Explore Minnesota Tourism for additional marketing activities.

(c) \$325,000 the first year and \$325,000 the second year are for the Minnesota Film and TV Board. The appropriation in each year is available only upon receipt by the board of \$1 in matching contributions of money or in-kind contributions from nonstate sources for every \$3 provided by this appropriation, except that each year up to \$50,000 is available on July 1 even if the required matching contribution has not been received by that date.

(d) \$1,225,000 the first year and \$1,225,000 the second year are appropriated for a grant to the Minnesota Film and TV Board for the film jobs production program under Minnesota Statutes, section 116U.26. These appropriations are available in either year

of the biennium and are available until expended.

Sec. 6. **HOUSING FINANCE AGENCY**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b>\$</b>	<b><u>43,384,000</u></b>	<b>\$</b>	<b><u>43,384,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

This appropriation is for transfer to the housing development fund for the programs specified. Except as otherwise indicated, this transfer is part of the agency's permanent budget base.

<b>Subd. 2. <u>Challenge Program</u></b>		<u>7,393,000</u>		<u>7,393,000</u>
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For the economic development and housing challenge program under Minnesota Statutes, section 462A.33. Of this amount, \$1,395,000 each year shall be made available during the first 11 months of the fiscal year exclusively for housing projects for American Indians. Any funds not committed to housing projects for American Indians in the first 11 months of the fiscal year shall be available for any eligible activity under Minnesota Statutes, section 462A.33. The base funding for this program is \$9,393,000 each year in the 2012-2013 biennium.

<b>Subd. 3. <u>Housing Trust Fund</u></b>		<u>10,555,000</u>		<u>10,555,000</u>
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For deposit in the housing trust fund account created under Minnesota Statutes, section 462A.201, and used for the purposes provided in that section. The base funding for this program is \$8,555,000 each year in the 2012-2013 biennium.

<b>Subd. 4. <u>Rental Assistance for Mentally Ill</u></b>		<u>2,638,000</u>		<u>2,638,000</u>
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For a rental housing assistance program for persons with a mental illness or families with an adult member with a mental illness under Minnesota Statutes, section 462A.2097.

**Subd. 5. Family Homeless Prevention**7,465,0007,465,000

For the family homeless prevention and assistance programs under Minnesota Statutes, section 462A.204.

**Subd. 6. Home Ownership Assistance Fund**860,000860,000

For the home ownership assistance program under Minnesota Statutes, section 462A.21, subdivision 8. In fiscal years 2012 and 2013, the base shall be \$885,000 each year.

**Subd. 7. Affordable Rental Investment Fund**8,821,0008,821,000

(a) For the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b. The appropriation is to finance the acquisition, rehabilitation, and debt restructuring of federally assisted rental property and for making equity take-out loans under Minnesota Statutes, section 462A.05, subdivision 39.

(b) The owner of federally assisted rental property must agree to participate in the applicable federally assisted housing program and to extend any existing low-income affordability restrictions on the housing for the maximum term permitted. The owner must also enter into an agreement that gives local units of government, housing and redevelopment authorities, and nonprofit housing organizations the right of first refusal if the rental property is offered for sale. Priority must be given among comparable federally assisted rental properties to properties with the longest remaining term under an agreement for federal assistance. Priority must also be given among comparable rental housing developments to developments that are or will be owned by local government units, a housing and redevelopment authority, or a nonprofit housing organization.

(c) The appropriation also may be used to finance the acquisition, rehabilitation, and

debt restructuring of existing supportive housing properties. For purposes of this subdivision, "supportive housing" means affordable rental housing with links to services necessary for individuals, youth, and families with children to maintain housing stability.

(d) For the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b, in fiscal years 2012 and 2013, the base is \$8,996,000 each year.

**Subd. 8. Housing Rehabilitation**

4,287,000

4,287,000

For the housing rehabilitation program under Minnesota Statutes, section 462A.05, subdivision 14, for rental housing developments.

**Subd. 9. Homeownership Education, Counseling, and Training**

865,000

865,000

For the homeownership education, counseling, and training program under Minnesota Statutes, section 462A.209.

**Subd. 10. Capacity Building Grants**

250,000

250,000

For nonprofit capacity building grants under Minnesota Statutes, section 462A.21, subdivision 3b.

**Subd. 11. Transfer of Disaster Relief Contingency Funds**

\$1,500,000 of the amount unobligated and unencumbered in the disaster relief contingency fund under Minnesota Statutes, section 462A.21, subdivision 29, is transferred to the housing trust fund under Minnesota Statutes, section 462A.201, for grants for temporary rental assistance for families with children who are homeless and in need of or utilizing an emergency shelter facility. This is a onetime transfer and is not added to the agency's permanent budget base.

**Subd. 12. Demonstration Project for High-Risk****Adults**250,000250,000

\$250,000 in fiscal year 2010 and \$250,000 in fiscal year 2011 are appropriated from the general fund to the commissioner of the Housing Finance Agency for grants to the nonprofit organization selected to administer the demonstration project for high-risk adults under Laws 2007, chapter 54, article 1, section 19, in order to continue the project for a second biennium. This is a onetime appropriation.

**Sec. 7. DEPARTMENT OF LABOR AND INDUSTRY****Subdivision 1. Total Appropriation****\$ 22,780,000 \$****22,780,000**Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>880,000</u>	<u>880,000</u>
<u>Workers' Compensation</u>	<u>20,871,000</u>	<u>20,871,000</u>
<u>Workforce Development</u>	<u>1,029,000</u>	<u>1,029,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Workers' Compensation**14,890,00014,890,000

This appropriation is from the workers' compensation fund.

\$200,000 each year is for grants to the Vinland Center for rehabilitation services. Grants shall be distributed as the department refers injured workers to the Vinland Center for rehabilitation services.

**Subd. 3. Labor Standards/Apprenticeship**1,909,0001,909,000Appropriations by Fund

<u>General</u>	<u>880,000</u>	<u>880,000</u>
<u>Workforce Development</u>	<u>1,029,000</u>	<u>1,029,000</u>

(a) \$879,000 each year is appropriated from the workforce development fund for the apprenticeship program under Minnesota Statutes, chapter 178, and includes \$100,000 each year for labor education and advancement program grants and to expand and promote registered apprenticeship training in nonconstruction trade programs.

(b) \$150,000 each year is from the workforce development fund for prevailing wage enforcement.

(c) \$200,000 the first year and \$200,000 the second year are from the assigned risk safety account for independent contractor investigator services to ensure compliance with the state's independent contractor exemption certificate program under Minnesota Statutes, section 181.723.

<b>Subd. 4. <u>General Support</u></b>	<u>5,981,000</u>	<u>5,981,000</u>
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This appropriation is from the workers' compensation fund.

**Sec. 8. BUREAU OF MEDIATION SERVICES**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b><u>\$ 1,683,000</u></b>	<b><u>\$ 1,683,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<b>Subd. 2. <u>Mediation Services</u></b>	<u>1,583,000</u>	<u>1,583,000</u>
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<b>Subd. 3. <u>Labor Management Cooperation Grants</u></b>	<u>100,000</u>	<u>100,000</u>
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\$100,000 each year is for grants to area labor management committees. Grants may be awarded for a 12-month period beginning July 1 each year. Any unencumbered balance remaining at the end of the first year does not cancel but is available for the second year.

<b>Sec. 9. <u>WORKERS' COMPENSATION COURT OF APPEALS</u></b>	<b><u>\$ 1,703,000</u></b>	<b><u>\$ 1,703,000</u></b>
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This appropriation is from the workers'

compensation fund.

Sec. 10. MINNESOTA HISTORICAL SOCIETY

<u>Subdivision 1. Total Appropriation</u>	<u>\$ 23,037,000</u>	<u>\$ 22,921,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Education and Outreach</u>	<u>12,972,000</u>	<u>12,972,000</u>
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Notwithstanding Minnesota Statutes, section 138.668, the Minnesota Historical Society may not charge a fee for its general tours at the Capitol, but may charge fees for special programs other than general tours.

<u>Subd. 3. Preservation and Access</u>	<u>9,703,000</u>	<u>9,703,000</u>
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Subd. 4. Fiscal Agent

<u>(a) Minnesota International Center</u>	<u>43,000</u>	<u>43,000</u>
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<u>(b) Minnesota Air National Guard Museum</u>	<u>16,000</u>	<u>0</u>
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<u>(c) Minnesota Military Museum</u>	<u>100,000</u>	<u>0</u>
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<u>(d) Farmamerica</u>	<u>128,000</u>	<u>128,000</u>
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(e) \$75,000 the first year and \$75,000 the second year are for a grant to the city of Eveleth to be used for the support of the Hockey Hall of Fame Museum provided that it continues to operate in the city. This grant is in addition to and must not be used to supplant funding under Minnesota Statutes, section 298.28, subdivision 9c. This appropriation is added to the society's budget base.

(f) Balances Forward

Any unencumbered balance remaining in this subdivision the first year does not cancel but is available for the second year of the biennium.

Subd. 5. Fund Transfer

The Minnesota Historical Society may

reallocate funds appropriated in and between subdivisions 2 and 3 for any program purposes and the appropriations are available in either year of the biennium.

**Sec. 11. BOARD OF THE ARTS**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b>\$</b>	<b><u>8,624,000</u></b>	<b>\$</b>	<b><u>8,624,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<b>Subd. 2. <u>Operations and Services</u></b>		<u>651,000</u>		<u>651,000</u>
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<b>Subd. 3. <u>Grants Program</u></b>		<u>5,515,000</u>		<u>5,515,000</u>
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<b>Subd. 4. <u>Regional Arts Councils</u></b>		<u>2,458,000</u>		<u>2,458,000</u>
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<b>Sec. 12. <u>MINNESOTA HUMANITIES CENTER</u></b>	<b>\$</b>	<b><u>250,000</u></b>	<b>\$</b>	<b><u>250,000</u></b>
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<b>Sec. 13. <u>PUBLIC BROADCASTING</u></b>	<b>\$</b>	<b><u>2,295,000</u></b>	<b>\$</b>	<b><u>2,015,000</u></b>
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(a) The appropriations under this section are to the commissioner of administration for the purposes specified.

(b) \$280,000 is for a grant to Minnesota Public Radio to assist with conversion to a digital broadcast signal. This is a onetime appropriation.

(c) \$1,161,000 the first year and \$1,161,000 the second year are for matching grants for public television.

(d) \$200,000 the first year and \$200,000 the second year are for public television equipment grants. Equipment or matching grant allocations shall be made after considering the recommendations of the Minnesota Public Television Association.

(e) \$17,000 the first year and \$17,000 the second year are for grants to the Twin Cities regional cable channel.

(f) \$287,000 the first year and \$287,000 the second year are for community service grants

to public educational radio stations.

(g) \$100,000 the first year and \$100,000 the second year are for equipment grants to public educational radio stations.

(h) The grants in paragraphs (f) and (g) must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations under Minnesota Statutes, section 129D.14.

(i) \$250,000 the first year and \$250,000 the second year are for equipment grants to Minnesota Public Radio, Inc.

(j) Any unencumbered balance remaining the first year for grants to public television or radio stations does not cancel and is available for the second year.

Sec. 14. <b><u>BOARD OF ACCOUNTANCY</u></b>	<b><u>\$</u></b>	<b><u>505,000</u></b>	<b><u>\$</u></b>	<b><u>505,000</u></b>
Sec. 15. <b><u>BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN</u></b>	<b><u>\$</u></b>	<b><u>815,000</u></b>	<b><u>\$</u></b>	<b><u>815,000</u></b>
Sec. 16. <b><u>BOARD OF COSMETOLOGIST EXAMINERS</u></b>	<b><u>\$</u></b>	<b><u>691,000</u></b>	<b><u>\$</u></b>	<b><u>651,000</u></b>
Sec. 17. <b><u>BOARD OF BARBER EXAMINERS</u></b>	<b><u>\$</u></b>	<b><u>193,000</u></b>	<b><u>\$</u></b>	<b><u>188,000</u></b>
Sec. 18. <b><u>COMBATIVE SPORTS COMMISSION</u></b>	<b><u>\$</u></b>	<b><u>80,000</u></b>	<b><u>\$</u></b>	<b><u>80,000</u></b>

This is a onetime appropriation. The Combative Sports Commission expires on July 1, 2011, unless the commissioner of finance determines that the commission's projected expenditures for the fiscal biennium ending June 30, 2013, will not exceed the commission's projected revenues for the fiscal biennium ending June 30, 2013, from fees and penalties authorized in Minnesota Statutes 2008, chapter 341.

Sec. 19. **TRANSFERS**

By June 30, 2010, the commissioner of

finance shall transfer \$2,500,000, and by June 30, 2011, \$2,500,000 of the unencumbered balance in the workforce development fund to the general fund.

**Sec. 20. LEGISLATIVE COORDINATING COMMISSION**

\$                      70,000 \$                      0

From the general fund to the Legislative Coordinating Commission under Minnesota Statutes, section 3.303, for fiscal year 2010 for the economic development strategy working group established in article 2, section 41.

**ARTICLE 2**

**EMPLOYMENT AND ECONOMIC DEVELOPMENT  
- RELATED PROVISIONS**

Section 1. Minnesota Statutes 2008, section 15.75, subdivision 5, is amended to read:

Subd. 5. **Agreements with Department of Employment and Economic Development.** The commissioner of employment and economic development may enter into agreements with regional entities established under subdivision 4 to prepare plans to ensure coordination of the department's business development, community development, workforce development, and trade functions with programs of local units of government and other public and private development agencies in the regions. The plans will identify regional development priorities and serve as a guide for the implementation of the department's programs in the regions.

Sec. 2. Minnesota Statutes 2008, section 16B.54, subdivision 2, is amended to read:

Subd. 2. **Vehicles.** (a) The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the Constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the Department of Administration.

(c) On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck must be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official

used car guide.

(d) The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the Division of Criminal Apprehension, the Division of Alcohol and Gambling Enforcement, and arson investigators of the Division of Fire Marshal in the Department of Public Safety;
- (4) the Financial Institutions Division and investigative staff of the Department of Commerce;
- (5) the Division of Disease Prevention and Control of the Department of Health;
- (6) the State Lottery;
- (7) criminal investigators of the Department of Revenue;
- (8) state-owned community service facilities in the Department of Human Services;
- ~~(9) the investigative staff of the Department of Employment and Economic Development;~~
- ~~(10) (9)~~ the Office of the Attorney General; and
- ~~(11) (10)~~ the investigative staff of the Gambling Control Board.

Sec. 3. Minnesota Statutes 2008, section 84.94, subdivision 3, is amended to read:

Subd. 3. **Identification and classification.** The Department of Natural Resources, with the cooperation of the state Geological Survey, ~~Departments the Department of Transportation, and Energy, Planning and Development~~ the Department of Employment and Economic Development, outside of the metropolitan area as defined in section 473.121, shall conduct a program of identification and classification of potentially valuable publicly or privately owned aggregate lands located outside of urban or developed areas where aggregate mining is restricted, without consideration of their present land use. The program shall give priority to identification and classification in areas of the state where urbanization or other factors are or may be resulting in a loss of aggregate resources to development. Lands shall be classified as:

- (1) identified resources, being those containing significant aggregate deposits;
- (2) potential resources, being those containing potentially significant deposits and meriting further evaluation; or
- (3) subeconomic resources, being those containing no significant deposits.

As lands are classified, the information on the classification shall be transmitted to each of the departments and agencies named in this subdivision, to the planning authority of the appropriate county and municipality, and to the appropriate county engineer. The county planning authority shall notify owners of land classified under this subdivision by publication in a newspaper of general circulation in the county or by mail.

Sec. 4. Minnesota Statutes 2008, section 116J.035, subdivision 1, is amended to read:

Subdivision 1. **Powers.** (a) The commissioner may:

(1) apply for, receive, and expend money from municipal, county, regional, and other government agencies;

(2) apply for, accept, and disburse grants and other aids from other public or private sources;

(3) contract for professional services if such work or services cannot be satisfactorily performed by employees of the department or by any other state agency;

(4) enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;

(5) distribute informational material at no cost to the public upon reasonable request; and

(6) enter into contracts necessary for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government; educational institutions, including the University of Minnesota. Contracts made pursuant to this section shall not be subject to the competitive bidding requirements of chapter 16C.

(b) The commissioner may apply for, receive, and expend money made available from federal or other sources for the purpose of carrying out the duties and responsibilities of the commissioner pursuant to this chapter.

(c) All moneys received by the commissioner pursuant to this chapter shall be deposited in the state treasury and, subject to section 3.3005, are appropriated to the commissioner for the purpose for which the moneys have been received. The money shall not cancel and shall be available until expended.

Sec. 5. Minnesota Statutes 2008, section 116J.035, subdivision 6, is amended to read:

Subd. 6. **Receipt of gifts, money; appropriation.** (a) ~~The commissioner may accept gifts, bequests, grants, payments for services, and other public and private money to help finance the activities of the department.:~~

(1) apply for, accept, and disburse gifts, bequests, grants, payments for services, loans, or other property from the United States, the state, private foundations, or any other source;

(2) enter into an agreement required for the gifts, grants, or loans; and

(3) hold, use, and dispose of its assets according to the terms of the gift, grant, loan, or agreement.

(b) Money received by the commissioner under this subdivision must be deposited in a separate account in the state treasury and invested by the State Board of Investment. The amount deposited, including investment earnings, is appropriated to the commissioner to carry out duties under this section.

Sec. 6. Minnesota Statutes 2008, section 116J.401, subdivision 2, is amended to read:

Subd. 2. **Duties; authorizations; limitations.** (a) The commissioner of employment and economic development shall:

(1) provide regional development commissions, the Metropolitan Council, and units of local government with information, technical assistance, training, and advice on using federal and state programs;

(2) receive and administer the Small Cities Community Development Block Grant Program authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(3) receive and administer the section 107 technical assistance program grants authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(4) receive, administer, and supervise other state and federal grants and grant programs for planning, community affairs, community development purposes, employment and training services, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07;

(5) receive applications for state and federal grants and grant programs for planning, community affairs, and community development purposes, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07;

(6) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner;

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

(8) administer the Wagner-Peyser Act, the Workforce Investment Act, and other federal employment and training programs;

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

(10) administer the aspects of the Minnesota family investment program, general assistance, and food stamps that relate to employment and training services, subject to the contract under section 116L.86, subdivision 1;

(11) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services;

(12) as requested, certify employment and training services, and decertify services that fail to comply with performance criteria according to standards established by the commissioner;

(13) develop standards for the contents and structure of the local service unit plans and plans for Indian tribe employment and training services, review and comment on those plans, and approve or disapprove the plans;

(14) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(15) establish administrative standards and payment conditions for providers of employment and training services;

(16) enter into agreements with Indian tribes as necessary to provide employment and training

services as appropriate funds become available;

(17) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(18) administer and supervise all forms of unemployment insurance provided for under federal and state laws;

(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;

(21) consult with the Rehabilitation Council for the Blind on matters pertaining to programs and services for the blind and visually impaired;

(22) enter into agreements with other departments of the state and local units of government as necessary; and

(23) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

(24) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;

(25) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;

(26) as necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state, investigate and study conditions affecting Minnesota business, industry, and commerce; collect and disseminate information; and engage in technical studies, scientific investigations, statistical research, and educational activities;

(27) plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;

(28) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;

(29) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;

(30) study trends and developments in the industries of the state and analyze the reasons underlying the trends;

- (31) study costs and other factors affecting successful operation of businesses within the state;
- (32) make recommendations regarding circumstances promoting or hampering business and industrial development;
- (33) serve as a clearing house for business and industrial problems of the state;
- (34) advise small business enterprises regarding improved methods of accounting and bookkeeping;
- (35) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;
- (36) cooperate with other state departments and with boards, commissions, and other state agencies in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;
- (37) in connection with state, county, and municipal public works projects, assemble and coordinate information relative to the status, scope, cost, and employment possibilities and availability of materials, equipment, and labor, and recommend limitations on the public works;
- (38) gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employment;
- (39) inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and its financing; and request and obtain information from other state departments or agencies as may be needed for the report;
- (40) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;
- (41) confer and cooperate with the executive, legislative, or planning authorities of the United States, neighboring states and provinces, and the counties and municipalities of neighboring states, for the purpose of bringing about a coordination between the development of neighboring provinces, states, counties, and municipalities and the development of this state;
- (42) generally gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other state departments for statistical data and results obtained by them and to arrange and compile that statistical information in a reasonable manner;
- (43) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development;
- (44) annually convene conferences of providers of economic development-related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies;
- (45) provide business with information on the economic benefits of energy conservation and on

the availability of energy conservation assistance;

(46) as part of the biennial budget process, prepare performance measures for each business loan or grant program within the jurisdiction of the commissioner. Measures include source of funds for each program, number of jobs proposed or promised at the time of application and the number of jobs created, estimated number of jobs retained, the average salary and benefits for the jobs resulting from the program, and the number of projects approved;

(47) provide a continuous program of education for business people;

(48) publish, disseminate, and distribute information and statistics;

(49) promote and encourage the expansion and development of markets for Minnesota products;

(50) promote and encourage the location and development of new businesses in the state as well as the maintenance and expansion of existing businesses and for that purpose cooperate with state and local agencies and individuals, both within and outside the state;

(51) advertise and disseminate information as to natural resources, desirable locations, and other advantages for the purpose of attracting businesses to locate in this state;

(52) aid the various communities in this state in attracting business to their communities;

(53) advise and cooperate with municipal, county, regional, and other planning agencies and planning groups within the state for the purpose of promoting coordination between the state and localities as to plans and development in order to maintain a high level of gainful employment in private profitable production and achieve commensurate advancement in social and cultural welfare;

(54) coordinate the activities of statewide and local planning agencies, correlate information secured from them and from state departments and disseminate information and suggestions to the planning agencies;

(55) encourage and assist in the organization and functioning of local planning agencies where none exist; and

(56) adopt measures calculated to promote public interest in and understanding of the problems of planning and, to that end, may publish and distribute copies of any plan or any report and may employ other means of publicity and education that will give full effect to the provisions of sections 116J.58 to 116J.63.

(b) At the request of any governmental subdivision in paragraph (a), clause (53), the commissioner may provide planning assistance, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work to any city or other municipality in the state or perform similar planning work in any county, metropolitan, or regional area in the state. The commissioner must not perform the planning work with respect to a metropolitan or regional area which is under the jurisdiction for planning purposes of a county, metropolitan, regional, or joint planning body, except at the request or with the consent of the respective county, metropolitan, regional, or joint planning body.

(c) The commissioner is authorized to:

(1) receive and expend money from municipal, county, regional, and other planning agencies;

(2) accept and disburse grants and other aids for planning purposes from the federal government and from other public or private sources;

(3) utilize money received under clause (2) for the employment of consultants and other temporary personnel to assist in the supervision or performance of planning work supported by money other than state-appropriated money;

(4) enter into contracts with agencies of the federal government, units of local government or combinations thereof, and with private persons that are necessary in the performance of the planning assistance function of the commissioner; and

(5) assist any local government unit in filling out application forms for the federal grants-in-aid.

(d) In furtherance of its planning functions, any city or town, however organized, may expend money and contract with agencies of the federal government, appropriate departments of state government, other local units of government, and with private persons.

Sec. 7. Minnesota Statutes 2008, section 116J.431, subdivision 1, is amended to read:

Subdivision 1. **Grant program established; purpose.** (a) The commissioner shall make grants to counties or cities to provide up to 50 percent of the capital costs of public infrastructure necessary for an eligible economic development project. The county or city receiving a grant must provide for the remainder of the costs of the project, either in cash or in kind. In-kind contributions may include the value of site preparation other than the public infrastructure needed for the project.

~~For purposes of this section, "city" means a statutory or home rule charter city located outside the metropolitan area, as defined in section 473.121, subdivision 2.~~

~~"Public infrastructure" means publicly owned physical infrastructure necessary to support economic development projects, including, but not limited to, sewers, water supply systems, utility extensions, streets, wastewater treatment systems, stormwater management systems, and facilities for pretreatment of wastewater to remove phosphorus.~~

(b) The purpose of the grants made under this section is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development.

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

Sec. 8. Minnesota Statutes 2008, section 116J.431, is amended by adding a subdivision to read:

Subd. 1a. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "City" means a statutory or home rule charter city located outside the metropolitan area, as defined in section 473.121, subdivision 2.

(c) "County" means a county located outside the metropolitan area, as defined in section 473.121, subdivision 2.

(d) "Public infrastructure" means publicly owned physical infrastructure necessary to support economic development projects, including, but not limited to, sewers, water supply systems, utility extensions, streets, wastewater treatment systems, storm water management systems, and facilities

for pretreatment of wastewater to remove phosphorus.

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

Sec. 9. Minnesota Statutes 2008, section 116J.431, subdivision 2, is amended to read:

Subd. 2. **Eligible projects.** An economic development project for which a county or city may be eligible to receive a grant under this section includes:

(1) manufacturing;

(2) technology;

(3) warehousing and distribution;

(4) research and development;

(5) agricultural processing, defined as transforming, packaging, sorting, or grading livestock or livestock products into goods that are used for intermediate or final consumption, including goods for nonfood use; or

(6) industrial park development that would be used by any other business listed in this subdivision.

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

Sec. 10. Minnesota Statutes 2008, section 116J.431, subdivision 4, is amended to read:

Subd. 4. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section. At a minimum, a county or city must include in its application a resolution of the county or city council certifying that the required local match is available. The commissioner must evaluate complete applications for eligible projects using the following criteria:

(1) the project is an eligible project as defined under subdivision 2;

(2) the project will result in substantial public and private capital investment and provide substantial economic benefit to the county or city in which the project would be located;

(3) the project is not relocating substantially the same operation from another location in the state, unless the commissioner determines the project cannot be reasonably accommodated within the county or city in which the business is currently located, or the business would otherwise relocate to another state; and

(4) the project will create or maintain full-time jobs.

(b) The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section. The commissioner's decisions and application of the priorities are not subject to judicial review, except for abuse of discretion.

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

Sec. 11. Minnesota Statutes 2008, section 116J.431, subdivision 6, is amended to read:

Subd. 6. **Maximum grant amount.** A county or city may receive no more than \$1,000,000 in two years for one or more projects.

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

Sec. 12. Minnesota Statutes 2008, section 116J.435, subdivision 3, is amended to read:

Subd. 3. **Grant program established.** (a) The commissioner shall make competitive grants to local governmental units to acquire and prepare land on which public infrastructure required to support an eligible project will be located, including demolition of structures and remediation of any hazardous conditions on the land, or to predesign, design, acquire, construct, furnish, and equip public infrastructure required to support an eligible project. The local governmental unit receiving a grant must provide for the remainder of the public infrastructure costs. The commissioner may waive the requirements related to an eligible project under subdivision 2 if a project would be eligible under this section but for the fact that its location requires infrastructure improvements to residential development.

(b) The amount of a grant may not exceed the lesser of the cost of the public infrastructure or 50 percent of the sum of the cost of the public infrastructure plus the cost of the completed eligible project.

(c) The purpose of the program is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development through the growth of new bioscience businesses and organizations.

Sec. 13. **[116J.438] MINNESOTA GREEN ENTERPRISE ASSISTANCE.**

(a) The commissioner of employment and economic development in consultation with the commissioner of commerce, shall lead a multiagency project to advise, promote, market, and coordinate state agency collaboration on green enterprise and green economy projects, as defined in section 116J.437. The multiagency project must include the commissioners of employment and economic development, natural resources, agriculture, transportation, and commerce, and the Pollution Control Agency. The project must involve collaboration with the chairs and ranking minority members of legislative committees overseeing energy policy and energy finance, state agencies, local governments, representatives from business and agriculture, and other interested stakeholders. The objective of the project is to utilize existing state resources to expedite the delivery of grants, licenses, permits, and other state authorizations and approvals for green economy projects. The commissioner shall appoint a lead person to coordinate green enterprise assistance activities.

(b) The commissioner of employment and economic development shall seek out and may select persons from the business community to assist the commissioner in project activities.

(c) The commissioner may accept gifts, contributions, and in-kind services for the purposes of this section, under the authority provided in section 116J.035, subdivision 1. Any funds received must be placed in a special revenue account for the purposes of this section.

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

Sec. 14. Minnesota Statutes 2008, section 116J.554, subdivision 1, is amended to read:

Subdivision 1. **Authority.** (a) The commissioner may make a grant to an applicant development authority to pay for up to 75 percent of the project costs for a qualifying site.

(b) The commissioner may also make a grant to an applicant development authority to pay up to 75 percent or \$50,000, whichever is less, toward the cost of performing contaminant investigations and the development of a response action plan for a qualifying site.

(c) The commissioner may also make a grant to an applicant to fill a site that would represent more than 50 percent of the remaining land in a city suitable for industrial development if it were properly filled.

(d) The determination of whether to make a grant for a qualifying site is within the sole discretion of the commissioner, subject to the process provided by this section, and available unencumbered money in the appropriation. The commissioner's decisions and application of the priorities under section 116J.555 are not subject to judicial review, except for abuse of discretion.

(e) The total amount of money provided in grants under paragraph (b) may not exceed \$250,000 \$500,000 per fiscal year.

(f) In making grants under paragraph (b), the commissioner shall give priority to applicants that have not received a grant under paragraph (a) or section 473.252 during the year ending on the date of application.

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

Sec. 15. Minnesota Statutes 2008, section 116J.555, subdivision 1, is amended to read:

Subdivision 1. **Priorities.** (a) The legislature expects that applications for grants will exceed the available appropriations and the agency will be able to provide grants to only some of the applicant development authorities.

(b) If applications for grants for qualified sites exceed the available appropriations, the agency shall make grants for sites that, in the commissioner's judgment, provide the highest return in public benefits for the public costs incurred and that meet all the requirements provided by law. In making this judgment, the commissioner shall consider the following factors:

(1) the recommendations or ranking of projects by the commissioner of the Pollution Control Agency regarding the potential threat to public health and the environment that would be reduced or eliminated by completion of each of the response action plans;

(2) the potential increase in the property tax base of the local taxing jurisdictions, considered relative to the fiscal needs of the jurisdictions, that will result from developments that will occur because of completion of each of the response action plans;

(3) the social value to the community of the cleanup and redevelopment of the site, including the importance of development of the proposed public facilities on each of the sites;

(4) the probability that each site will be cleaned up without use of government money in the reasonably foreseeable future by considering but not limited to the current market value of the site versus the cleanup cost;

(5) the amount of cleanup costs for each site; and

(6) the amount of the commitment of municipal or other local resources to pay for the cleanup costs.

The factors are not listed in a rank order of priority; rather the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate. The commissioner may consider other factors that affect the net return of public benefits for completion of the response action plan. The commissioner, notwithstanding the listing of priorities and the goal of maximizing the return of public benefits, shall make grants that distribute available money to sites both within and outside of the metropolitan area. The commissioner shall provide a written statement of the supporting reasons for each grant. Unless sufficient applications are not received for qualifying sites outside of the metropolitan area, at least ~~25~~ 35 percent of the money provided as grants must be made for sites located outside of the metropolitan area.

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

**Sec. 16. [116J.6581] MINNESOTA SCIENCE AND TECHNOLOGY ECONOMIC DEVELOPMENT PROJECT.**

(a) The commissioner of employment and economic development shall lead a public-private project with science and technology experts from public, academic, and private sectors to advise state agency collaboration to design, coordinate, and administer a strategic science and technology program for the state designed to promote the welfare of the people of the state, maximize the economic growth of the state, and create and retain jobs in the state's industrial base through enhancement of Minnesota's:

- (1) high technology research and development capabilities;
- (2) product and process innovation and commercialization;
- (3) high technology manufacturing capabilities;
- (4) science and technology business environment; and
- (5) science and technology workforce preparation.

(b) Project membership shall consist of science and technology experts from public, academic, and private sectors. A member must have a background in science or technology in order to serve on the project. The project members shall consist of at least 13 members as follows:

- (1) a representative of the University of Minnesota;
- (2) a representative of Minnesota State Colleges and Universities;
- (3) the chief executive officer of Mayo Clinic or a designee; and
- (4) six chief executive officers or designees from science- or technology-oriented companies and four representatives from science- and technology-oriented trade organizations.

(c) The commissioner of employment and economic development must report by January 15, 2010, to the legislative committees having jurisdiction over science and technology and economic development policy and finance on the activities of the project and must recommend changes or additions to its organization, including specific recommendations for necessary legislation.

Sec. 17. Minnesota Statutes 2008, section 116J.68, subdivision 2, is amended to read:

Subd. 2. **Duties.** The bureau shall:

~~(a)~~ (1) provide information and assistance with respect to all aspects of business planning and business management related to the start-up, operation, or expansion of a small business in Minnesota;

~~(b)~~ (2) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations ~~or to the business assistance referral system established by the Minnesota Project Outreach Corporation;~~

~~(c)~~ (3) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

~~(d)~~ (4) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

~~(e)~~ (5) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

~~(f)~~ (6) maintain a close and continued relationship with the director of the procurement program within the Department of Administration so as to facilitate the department's duties and responsibilities under sections 16C.16 to 16C.19 relating to the small targeted group business and economically disadvantaged business program of the state;

~~(g)~~ (7) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

~~(h)~~ (8) establish and maintain a toll free telephone number so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state. If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;

~~(i)~~ (9) conduct research and provide data as required by the state legislature;

~~(j)~~ (10) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

~~(k)~~ (11) collect and disseminate information on state procurement opportunities, including information on the procurement process;

~~(l)~~ (12) develop a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising about state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business

persons;

~~(m)~~ (13) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648; and

~~(n)~~ (14) assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.

Sec. 18. Minnesota Statutes 2008, section 116J.8731, subdivision 2, is amended to read:

Subd. 2. **Administration.** The commissioner shall administer the fund as part of the Small Cities Development Block Grant Program. Funds shall be made available to local communities and recognized Indian tribal governments in accordance with the rules adopted for economic development grants in the small cities community development block grant program, except that all units of general purpose local government are eligible applicants for Minnesota investment funds. The commissioner may also make funds available within the department for eligible expenditures under subdivision 3, clause (2). A home rule charter or statutory city, county, or town may loan or grant money received from repayment of funds awarded under this section to a regional development commission, other regional entity, or statewide community capital fund as determined by the commissioner, to capitalize or to provide the local match required for capitalization of a regional or statewide revolving loan fund.

Sec. 19. Minnesota Statutes 2008, section 116J.8731, subdivision 3, is amended to read:

Subd. 3. **Eligible expenditures.** The money appropriated for this section may be used to ~~provide~~ fund:

(1) grants for infrastructure, loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must be for a principal amount not to exceed one-half of the cost of the project for which financing is sought; and

(2) strategic investments in renewable energy market development, such as low interest loans for renewable energy equipment manufacturing, training grants to support renewable energy workforce, development of a renewable energy supply chain that represents and strengthens the industry throughout the state, and external marketing to garner more national and international investment into Minnesota's renewable sector. Expenditures in external marketing for renewable energy market development are not subject to the limitations in clause (1).

Sec. 20. [116J.997] PROGRAM ACCOUNTABILITY REQUIREMENTS.

Subdivision 1. **Accountability measurement.** By October 1, 2009, the commissioner of employment and economic development shall develop a uniform accountability report for economic development or workforce related programs funded in whole or in part by state or federal funds. The commissioner shall also develop a formula for measuring the return on investment for each program and a comparison of the return on investment of all programs funded in whole or in part by state or federal funds. The requirements of this section apply to programs administered directly by the commissioner or administered by other employment organizations under a grant made by the department. The report and formula required by this subdivision shall be submitted

to the chairs and ranking minority members of the committees of the house of representatives and senate having jurisdiction over economic development and workforce policy and finance by October 15, 2009, for review and comment.

Subd. 2. **Report to the legislature.** By December 31 of each even-numbered year the commissioner must report to the chairs and the ranking minority members of the committees of the house of representatives and the senate having jurisdiction over economic development and workforce policy and finance the following information for each program subject to the requirements of subdivision 1:

- (1) the target population;
- (2) the number of jobs affected by the program, including the number of net new jobs created in the state and the average annual wage per job;
- (3) the number of individuals leaving the unemployment compensation program as a result of the program;
- (4) the number of individuals leaving the Minnesota Family Investment Program support as a result of the program;
- (5) the region of the state in which the program operated;
- (6) the amount of state or federal funds allocated to the program;
- (7) the return on investment as calculated by the formula developed by the commissioner; and
- (8) the dollar amount and percentage of the total grant used for administrative expenses.

Subd. 3. **Report to the commissioner.** A recipient of a grant made by or through the department must report to the commissioner by September 1 of each even-numbered year on each of the items in subdivision 2 for each program it administers. The report must be in a format prescribed by the commissioner.

Beginning November 1, 2009, the commissioner shall provide notice to grant applicants and recipients regarding the data collection and reporting requirements under this subdivision and must provide technical assistance to applicants and recipients to assist in complying with the requirements of this subdivision.

Subd. 4. **Biennial budget request.** The information collected and reported under subdivisions 2 and 3 shall be included in budgets submitted to the legislature under section 16A.11.

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

Sec. 21. Minnesota Statutes 2008, section 116L.03, subdivision 5, is amended to read:

Subd. 5. **Terms.** The terms of appointed members shall be for four years ~~except for the initial appointments. The initial appointments of the governor shall have the following terms: two members each for one, two, three, and four years.~~ No member shall serve more than two terms, and no person shall be appointed after December 31, 2001, for any term that would cause that person to serve a total of more than eight years on the board. Compensation for board members is as provided in section 15.0575, subdivision 3.

Sec. 22. Minnesota Statutes 2008, section 116L.05, subdivision 5, is amended to read:

Subd. 5. **Use of workforce development funds.** After March 1 of any fiscal year, the board may use workforce development funds for the purposes outlined in sections 116L.02, 116L.04, and 116L.10 to 116L.14, or to provide incumbent worker training services under section 116L.18 if the following conditions have been met:

(1) the board examines relevant economic indicators, including the projected number of layoffs for the remainder of the fiscal year and the next fiscal year, evidence of declining and expanding industries, the number of initial applications for and the number of exhaustions of unemployment benefits, job vacancy data, and any additional relevant information brought to the board's attention;

(2) the board accounts for all allocations made in section 116L.17, subdivision 2;

(3) based on the past expenditures and projected revenue, the board estimates future funding needs for services under section 116L.17 for the remainder of the current fiscal year and the next fiscal year;

(4) the board determines there will be unspent funds after meeting the needs of dislocated workers in the current fiscal year and there will be sufficient revenue to meet the needs of dislocated workers in the next fiscal year; and

(5) the board reports its findings in clauses (1) to (4) to the chairs of legislative committees with jurisdiction over the workforce development fund, to the commissioners of revenue and finance, and to the public.

Sec. 23. Minnesota Statutes 2008, section 116L.20, subdivision 1, is amended to read:

Subdivision 1. **Determination and collection of special assessment.** (a) In addition to amounts due from an employer under the Minnesota unemployment insurance program, each employer, except an employer making reimbursements is liable for a special assessment levied at the rate of .10 percent per year on all taxable wages, as defined in section 268.035, subdivision 24, except that effective July 1, 2009, until June 30, 2011, the special assessment shall be levied at a rate of .12 percent per year on all taxable wages as defined in section 268.035, subdivision 24. The assessment shall become due and be paid by each employer on the same schedule and in the same manner as other amounts due from an employer under section 268.051, subdivision 1.

(b) The special assessment levied under this section shall be subject to the same requirements and collection procedures as any amounts due from an employer under the Minnesota unemployment insurance program.

Sec. 24. Minnesota Statutes 2008, section 116L.362, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) The commissioner shall make grants to eligible organizations for programs to provide education and training services to targeted youth. The purpose of these programs is to provide specialized training and work experience for targeted youth who have not been served effectively by the current educational system. The programs are to include a work experience component with work projects that result in the rehabilitation, improvement, or construction of (1) residential units for the homeless, or; (2) improvements to the energy efficiency and environmental health of residential units and other green jobs purposes; (3) facilities to support community garden projects; or (4) education, social service, or health facilities which are owned

by a public agency or a private nonprofit organization.

(b) Eligible facilities must principally provide services to homeless or very low income individuals and families, and include the following:

- (1) Head Start or day care centers;
- (2) homeless, battered women, or other shelters;
- (3) transitional housing;
- (4) youth or senior citizen centers; ~~and~~
- (5) community health centers; and
- (6) community garden facilities.

Two or more eligible organizations may jointly apply for a grant. The commissioner shall administer the grant program.

Sec. 25. Minnesota Statutes 2008, section 116L.364, subdivision 3, is amended to read:

Subd. 3. **Work experience component.** A work experience component must be included in each program. The work experience component must provide vocational skills training in an industry where there is a viable expectation of job opportunities. A training subsidy, living allowance, or stipend, not to exceed an amount equal to 100 percent of the poverty line for a family of two as defined in United States Code, title 42, section 673, paragraph (2), may be provided to program participants. The wage or stipend must be provided to participants who are recipients of public assistance in a manner or amount which will not reduce public assistance benefits. The work experience component must be designed so that work projects result in (1) the expansion or improvement of residential units for homeless persons and very low income families, ~~or;~~ (2) improvements to the energy efficiency and environmental health of residential units; (3) facilities to support community garden projects; or (4) rehabilitation, improvement, or construction of eligible education, social service, or health facilities that principally serve homeless or very low income individuals and families. Any work project must include direct supervision by individuals skilled in each specific vocation. Program participants may earn credits toward the completion of their secondary education from their participation in the work experience component.

Sec. 26. Minnesota Statutes 2008, section 116L.871, subdivision 1, is amended to read:

Subdivision 1. **Responsibility and certification.** (a) Unless prohibited by federal law or otherwise determined by state law, a local service unit is responsible for the delivery of employment and training services. ~~As of July 1, 1998,~~ Employment and training services may be delivered by certified employment and training service providers.

(b) The local service unit's employment and training service provider must meet the certification standards in this subdivision if the county requests that they be certified to deliver any of the following employment and training services and programs: wage subsidies; general assistance grant diversion; food stamp employment and training programs; community work experience programs; and MFIP employment services.

(c) The commissioner shall certify a local service unit's service provider to provide these

employment and training services and programs if the commissioner determines that the provider has:

- (1) past experience in direct delivery of the programs specified in paragraph (b);
  - (2) staff capabilities and qualifications, including adequate staff to provide timely and effective services to clients, and proven staff experience in providing specific services such as assessments, career planning, job development, job placement, support services, and knowledge of community services and educational resources;
  - (3) demonstrated effectiveness in providing services to public assistance recipients and other economically disadvantaged clients; and
  - (4) demonstrated administrative capabilities, including adequate fiscal and accounting procedures, financial management systems, participant data systems, and record retention procedures.
- (d) When the only service provider that meets the criterion in paragraph (c), clause (1), has been decertified, according to subdivision 1a, in that local service unit, the following criteria shall be substituted: past experience in direct delivery of multiple, coordinated, nonduplicative services, including outreach, assessments, identification of client barriers, employability development plans, and provision or referral to support services.

Sec. 27. Minnesota Statutes 2008, section 116L.96, is amended to read:

**116L.96 DISPLACED HOMEMAKER PROGRAMS.**

The commissioner of ~~economic security~~ employment and economic development may enter into arrangements with existing private or nonprofit organizations and agencies with experience in dealing with displaced homemakers to provide counseling and training services. The commissioner shall assist displaced homemakers in applying for appropriate welfare programs and shall take welfare allowances received into account in setting the stipend level. Income received as a stipend under these programs shall be totally disregarded for purposes of determining eligibility for and the amount of a general assistance grant.

Sec. 28. Minnesota Statutes 2008, section 116O.115, subdivision 2, is amended to read:

Subd. 2. **Qualified company.** A company is qualified to receive assistance under the small business growth acceleration program if ~~it~~ the company is a manufacturing company or a manufacturing-related service company that employs ~~100~~ 250 or fewer full-time equivalent employees.

Sec. 29. Minnesota Statutes 2008, section 116O.115, subdivision 4, is amended to read:

Subd. 4. **Fund awards; use of funds.** (a) The corporation shall establish procedures for determining which applicants for assistance under the small business growth acceleration program will receive program funding. Funding shall be awarded only to accelerate a qualified company's adoption of needed technology or business improvements when the corporation concludes that it is unlikely the improvements could be accomplished in any other way.

(b) The maximum amount of funds awarded to a qualified company under the small business growth acceleration program for a particular project must not exceed ~~50~~ 75 percent of the total

cost of a project and must not under any circumstances exceed \$25,000 during a calendar year. The corporation shall not award to a qualified company small business growth acceleration program funds in excess of \$50,000 per year.

(c) Any funds awarded to a qualified company under the small business growth acceleration program must be used for business services and products that will enhance the operation of the company. These business services and products must come either directly from the corporation or from a network of expert providers identified and approved by the corporation. No company receiving small business growth acceleration program funds may use the funds for refinancing, overhead costs, new construction, renovation, equipment, or computer hardware.

(d) Any funds awarded must be disbursed to the qualified company as reimbursement documented according to requirements of the corporation.

(e) Receipt of funds from an award under this section is contingent upon a contribution of funds by the qualified company to the project, as follows:

(1) a company with under 50 employees must contribute one dollar for every three dollars of program assistance awarded;

(2) a company with 50 to 100 employees must contribute one dollar for every one dollar of program assistance awarded; and

(3) a company with 101 to 250 employees must contribute three dollars for every one dollar of program assistance awarded.

Sec. 30. Minnesota Statutes 2008, section 123A.08, subdivision 1, is amended to read:

Subdivision 1. **Outside sources for resources and services.** A center may accept:

(1) resources and services from postsecondary institutions serving center pupils;

(2) resources from ~~Job Training Partnership Act~~ Workforce Investment Act of 1998, Public Law 105-220 programs, including funding for jobs skills training for various groups and the percentage reserved for education;

(3) resources from the Department of Human Services and county welfare funding;

(4) resources from a local education and employment transitions partnership; or

(5) private resources, foundation grants, gifts, corporate contributions, and other grants.

Sec. 31. Minnesota Statutes 2008, section 124D.49, subdivision 3, is amended to read:

Subd. 3. **Local education and employment transitions systems.** A local education and employment transitions partnership must assess the needs of employers, employees, and learners, and develop a plan for implementing and achieving the objectives of a local or regional education and employment transitions system. The plan must provide for a comprehensive local system for assisting learners and workers in making the transition from school to work or for retraining in a new vocational area. The objectives of a local education and employment transitions system include:

(1) increasing the effectiveness of the educational programs and curriculum of elementary,

secondary, and postsecondary schools and the work site in preparing students in the skills and knowledge needed to be successful in the workplace;

(2) implementing learner outcomes for students in grades kindergarten through 12 designed to introduce the world of work and to explore career opportunities, including nontraditional career opportunities;

(3) eliminating barriers to providing effective integrated applied learning, service-learning, or work-based curriculum;

(4) increasing opportunities to apply academic knowledge and skills, including skills needed in the workplace, in local settings which include the school, school-based enterprises, postsecondary institutions, the workplace, and the community;

(5) increasing applied instruction in the attitudes and skills essential for success in the workplace, including cooperative working, leadership, problem-solving, and respect for diversity;

(6) providing staff training for vocational guidance counselors, teachers, and other appropriate staff in the importance of preparing learners for the transition to work, and in methods of providing instruction that incorporate applied learning, work-based learning, and service-learning experiences;

(7) identifying and enlisting local and regional employers who can effectively provide work-based or service-learning opportunities, including, but not limited to, apprenticeships, internships, and mentorships;

(8) recruiting community and workplace mentors including peers, parents, employers and employed individuals from the community, and employers of high school students;

(9) identifying current and emerging educational, training, and employment needs of the area or region, especially within industries with potential for job growth;

(10) improving the coordination and effectiveness of local vocational and job training programs, including vocational education, adult basic education, tech prep, apprenticeship, service-learning, youth entrepreneur, youth training and employment programs administered by the commissioner of employment and economic development, and local job training programs under the ~~Job Training Partnership Act, United States Code, title 29, section 1501, et seq.~~ Workforce Investment Act of 1998, Public Law 105-220;

(11) identifying and applying for federal, state, local, and private sources of funding for vocational or applied learning programs;

(12) providing students with current information and counseling about career opportunities, potential employment, educational opportunities in postsecondary institutions, workplaces, and the community, and the skills and knowledge necessary to succeed;

(13) providing educational technology, including interactive television networks and other distance learning methods, to ensure access to a broad variety of work-based learning opportunities;

(14) including students with disabilities in a district's vocational or applied learning program and ways to serve at-risk learners through collaboration with area learning centers under sections 123A.05 to 123A.09, or other alternative programs; and

(15) providing a warranty to employers, postsecondary education programs, and other postsecondary training programs, that learners successfully completing a high school work-based or applied learning program will be able to apply the knowledge and work skills included in the program outcomes or graduation requirements. The warranty shall require education and training programs to continue to work with those learners that need additional skill development until they can demonstrate achievement of the program outcomes or graduation requirements.

Sec. 32. Minnesota Statutes 2008, section 160.276, subdivision 8, is amended to read:

Subd. 8. **Revenue.** The agreement may provide that the vendor pay a portion of the gross revenues derived from advertising. These revenues must be paid to the state for deposit in the safety rest area account established in section 160.2745. The commissioner of transportation and director of ~~the Office of~~ Explore Minnesota Tourism may enter into an interagency agreement to define the distribution of the revenues generated in this subdivision and subdivisions 2a and 3a.

Sec. 33. Minnesota Statutes 2008, section 241.27, subdivision 1, is amended to read:

Subdivision 1. **Establishment of Minnesota correctional industries; MINNCOR industries.** For the purpose of providing adequate, regular and suitable employment, educational training, and to aid the inmates of state correctional facilities, the commissioner of corrections may establish, equip, maintain and operate at any correctional facility under the commissioner's control such industrial and commercial activities as may be deemed necessary and suitable to the profitable employment, educational training and development of proper work habits of the inmates of state correctional facilities. The industrial and commercial activities authorized by this section are designated MINNCOR industries and shall be for the primary purpose of sustaining and ensuring MINNCOR industries' self-sufficiency, providing educational training, meaningful employment and the teaching of proper work habits to the inmates of correctional facilities under the control of the commissioner of corrections, and not solely as competitive business ventures. The net profits from these activities shall be used for the benefit of the inmates as it relates to education, self-sufficiency skills, and transition services and not to fund non-inmate-related activities or mandates. Prior to the establishment of any industrial and commercial activity, the commissioner of corrections may consult with representatives of business, industry, organized labor, the state Department of Education, the state Apprenticeship Council, the state Department of Labor and Industry, the Department of Employment Security and Economic Development, the Department of Administration, and such other persons and bodies as the commissioner may feel are qualified to determine the quantity and nature of the goods, wares, merchandise and services to be made or provided, and the types of processes to be used in their manufacture, processing, repair, and production consistent with the greatest opportunity for the reform and educational training of the inmates, and with the best interests of the state, business, industry and labor.

The commissioner of corrections shall, at all times in the conduct of any industrial or commercial activity authorized by this section, utilize inmate labor to the greatest extent feasible, provided, however, that the commissioner may employ all administrative, supervisory and other skilled workers necessary to the proper instruction of the inmates and the profitable and efficient operation of the industrial and commercial activities authorized by this section.

Additionally, the commissioner of corrections may authorize the director of any correctional facility under the commissioner's control to accept work projects from outside sources for processing, fabrication or repair, provided that preference shall be given to the performance of such

work projects for state departments and agencies.

Sec. 34. Minnesota Statutes 2008, section 248.061, subdivision 3, is amended to read:

Subd. 3. **Eligible individual.** "Eligible individual" means an individual who is eligible for library loan services through the Library of Congress and the ~~State Library for the Blind and Physically Handicapped~~ Minnesota Braille and Talking Book Library under Code of Federal Regulations, title 36, section 701.10, subsection (b).

Sec. 35. Minnesota Statutes 2008, section 248.07, subdivision 7, is amended to read:

Subd. 7. **Blind, vending stands and machines on governmental property; liability limited.** (a) Notwithstanding any other law, for the rehabilitation of blind persons the commissioner shall have exclusive authority to establish and to operate vending stands and vending machines in all buildings and properties owned or rented exclusively by the Minnesota State Colleges and Universities at a state university, a community college, a consolidated community technical college, or a technical college served by the commissioner before January 1, 1996, or by any department or agency of the state of Minnesota except the Department of Natural Resources properties operated directly by the Division of State Parks and not subject to private leasing. ~~The merchandise to be dispensed by such~~ Vending stands and machines authorized under this subdivision may include dispense nonalcoholic beverages, food, candies, tobacco, souvenirs, notions and related items. ~~Such vending stands and vending machines herein authorized shall~~ and must be operated on the same basis as other vending stands for the blind established and supervised by the commissioner under federal law. The commissioner shall waive this authority to displace any present private individual concessionaire in any state-owned or rented building or property who is operating under a contract with a specific renewal or termination date, until the renewal or termination date. With the consent of the governing body of a governmental subdivision of the state, the commissioner may establish and supervise vending stands and vending machines for the blind in any building or property exclusively owned or rented by the governmental subdivision.

(b) The Department of Employment and Economic Development is not liable under chapter 176 for any injury sustained by a blind vendor's employee or agent. The Department of Employment and Economic Development, its officers, and its agents are not liable for the acts or omissions of a blind vendor or of a blind vendor's employee or agent that may result in the blind vendor's liability to third parties. The Department of Employment and Economic Development, its officers, and its agents are not liable for negligence based on any theory of liability for claims arising from the relationship created under this subdivision with the blind vendor.

Sec. 36. Minnesota Statutes 2008, section 248.07, subdivision 8, is amended to read:

Subd. 8. **Use of revolving fund, licenses for operation of vending machines stands.** (a) The revolving fund created by Laws 1947, chapter 535, section 5, is continued as provided in this subdivision and shall be known as the revolving fund for vocational rehabilitation of the blind. It shall be used for the purchase of equipment and supplies for establishing and operating of vending stands by blind persons. All income, receipts, earnings, and federal ~~grants~~ vending machine income due to the operation ~~thereof~~ of vending stands operated under this subdivision shall also be paid into the fund. All interest earned on money accrued in the fund must be credited to the fund by the commissioner of finance. All equipment, supplies, and expenses for setting up these stands shall be paid for from the fund.

~~(b) Authority is hereby given to~~ The commissioner is authorized to use the money available in the revolving fund that originated as operational charges to individuals licensed under this subdivision for the establishment, operation, and supervision of vending stands by blind persons for the following purposes:

(1) purchase, upkeep and replacement of equipment;

(2) expenses incidental to the setting up of new stands and improvement of old stands;

(3) reimbursement under section 15.059 to individual blind vending operators for reasonable expenses incurred in attending supervisory meetings as called by the commissioner and other expenditures for management services consistent with federal law; and

(4) purchase of fringe benefits for blind vending operators and their employees such as group health insurance, retirement program, vacation or sick leave assistance provided that the purchase of any fringe benefit is approved by a majority vote of blind vending operators licensed pursuant to this subdivision after the commissioner provides to each blind vending operator information on all matters relevant to the fringe benefits. "Majority vote" means a majority of blind vending operators voting. Fringe benefits shall be paid only from assessments of operators for specific benefits, gifts to the fund for fringe benefit purposes, and vending income which is not assignable to an individual stand.

(c) Money originally deposited as merchandise and supplies repayments by individuals licensed under this subdivision may be expended for initial and replacement stocks of supplies and merchandise. Money originally deposited from vending income on federal property must be spent consistent with federal law.

(d) All other deposits may be used for the purchase of general liability insurance or any other expense related to the operation and supervision of vending stands.

(e) The commissioner shall issue each license for the operation of a vending stand or vending machine for an indefinite period but may terminate any license in the manner provided. In granting licenses for new or vacated stands preference on the basis of seniority of experience in operating stands under the control of the commissioner shall be given to capable operators who are deemed competent to handle the enterprise under consideration. Application of this preference shall not prohibit the commissioner from selecting an operator from the community in which the stand is located.

Sec. 37. Minnesota Statutes 2008, section 256J.626, subdivision 4, is amended to read:

**Subd. 4. County and tribal biennial service agreements.** (a) Effective January 1, 2004, and each two-year period thereafter, each county and tribe must have in place an approved biennial service agreement related to the services and programs in this chapter. In counties with a city of the first class with a population over 300,000, the county must consider a service agreement that includes a jointly developed plan for the delivery of employment services with the city. Counties may collaborate to develop multicounty, multitribal, or regional service agreements.

(b) The service agreements will be completed in a form prescribed by the commissioner. The agreement must include:

(1) a statement of the needs of the service population and strengths and resources in the

community;

(2) numerical goals for participant outcomes measures to be accomplished during the biennial period. The commissioner may identify outcomes from section 256J.751, subdivision 2, as core outcomes for all counties and tribes;

(3) strategies the county or tribe will pursue to achieve the outcome targets. Strategies must include specification of how funds under this section will be used and may include community partnerships that will be established or strengthened;

(4) strategies the county or tribe will pursue under family stabilization services; and

(5) other items prescribed by the commissioner in consultation with counties and tribes.

(c) The commissioner shall provide each county and tribe with information needed to complete an agreement, including: (1) information on MFIP cases in the county or tribe; (2) comparisons with the rest of the state; (3) baseline performance on outcome measures; and (4) promising program practices.

(d) The service agreement must be submitted to the commissioner by October 15, 2003, and October 15 of each second year thereafter. The county or tribe must allow a period of not less than 30 days prior to the submission of the agreement to solicit comments from the public on the contents of the agreement.

(e) The commissioner must, within 60 days of receiving each county or tribal service agreement, inform the county or tribe if the service agreement is approved. If the service agreement is not approved, the commissioner must inform the county or tribe of any revisions needed prior to approval.

~~(f) The service agreement in this subdivision supersedes the plan requirements of section 116L.88.~~

Sec. 38. Minnesota Statutes 2008, section 256J.66, subdivision 1, is amended to read:

Subdivision 1. **Establishing the on-the-job training program.** (a) County agencies may develop on-the-job training programs for MFIP caregivers who are participating in employment and training services. A county agency that chooses to provide on-the-job training may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) Provision of an on-the-job training program under the ~~Job Training Partnership Act~~ Workforce Investment Act of 1998, Public Law 105-220, in and of itself, does not qualify as an on-the-job training program under this section.

(c) Employers must compensate participants in on-the-job training ~~shall be compensated by the employer~~ at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Sec. 39. Minnesota Statutes 2008, section 268A.06, subdivision 1, is amended to read:

Subdivision 1. **Application.** Any city, town, county, nonprofit corporation, regional treatment center, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community rehabilitation facility. Application for assistance ~~shall~~ must be on forms prescribed by the commissioner. ~~Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No~~ An applicant ~~shall be~~ is not eligible for a grant hereunder ~~under this section unless its plan and budget~~ audited financial statements of the prior fiscal year have been approved by the commissioner.

Sec. 40. Minnesota Statutes 2008, section 469.169, subdivision 3, is amended to read:

Subd. 3. **Evaluation of applications.** (a) The commissioner shall review and evaluate the applications submitted pursuant to subdivision 2 and shall determine whether each area is eligible for designation as an enterprise zone. In determining whether an area is eligible under section 469.168, subdivision 4, paragraph (a), if unemployment, employment, income, or other necessary data are not available for the area from the federal departments of labor or commerce or the state demographer, the commissioner may rely upon other data submitted by the municipality if the commissioner determines it is statistically reliable or accurate. The commissioner, together with the commissioner of revenue, shall prepare an estimate of the amount of state tax revenue which will be foregone for each application if the area is designated as a zone.

(b) By October 1 of each year, the commissioner shall submit to the Legislative Advisory Commission a list of the areas eligible for designation as enterprise zones, along with recommendations for designation and supporting documentation. In making recommendations for designation, the commissioner shall consider and evaluate the applications pursuant to the following criteria:

- (1) the pervasiveness of poverty, unemployment, and general distress in the area;
- (2) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the area and the extent of property tax arrearages in the area;
- (3) the prospects for new investment and economic development in the area with the tax reductions proposed in the application relative to the state and local tax revenue which would be foregone;
- (4) the competing needs of other areas of the state;
- (5) the municipality's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;
- (6) the extent to which the projected development in the zone will provide employment to residents of the economic hardship area, and particularly individuals who are unemployed or who are economically disadvantaged as defined in the federal ~~Job Training Partnership Act of 1982, Volume 96, Statutes at Large, page 1322~~ Workforce Investment Act of 1998, Public Law 105-220;
- (7) the funds available pursuant to subdivision 7; and
- (8) other relevant factors that the commissioner specifies in the commissioner's recommendations.

(c) The commissioner shall submit a separate list of the areas entitled to designation as federally designated zones and border city zones along with recommendations for the amount of funds to be allocated to each area.

**Sec. 41. ECONOMIC DEVELOPMENT STRATEGY WORKING GROUP.**

(a) An 18-member bipartisan working group with members from all geographic areas of the state to develop an economic development strategy to guide job and business growth in Minnesota and to strengthen the state's economy is established. The working group consists of six members of the house of representatives and three members of the public appointed by the speaker of the house and six members of the senate and three members of the public appointed by the subcommittee on committees of the senate. The working group is responsible to review and analyze Minnesota's current economic development strategy and make recommendations on improvements according to this section. The Legislative Coordinating Commission under Minnesota Statutes, section 3.303, must provide staff support for the working group.

(b) The working group must conduct an academic and practitioner led effort to:

(1) perform best practices research on economic development principles to apply to Minnesota;

(2) assess Minnesota's current economic development strategies, including tax incentives and appropriation funded programs and grants to determine how well these strategies are working and how they compare to best practices;

(3) develop a comprehensive strategy to move Minnesota's economy forward;

(4) develop a set of benchmarks to measure Minnesota's investments in economic development strategies; and

(5) recommend the best structure to govern and lead Minnesota's economic development strategy.

(c) Appointments to the working group shall be made by June 1, 2009, and the first meeting shall be convened no later than July 1, 2009. The task force shall elect a chair from among its members at the first meeting. The working group may contract for research studies and assistance necessary to fulfill its responsibilities. The working group must report to the committees of the legislature with responsibility for economic development by February 15, 2010.

**Sec. 42. APPROPRIATION; GREEN ENTERPRISE ASSISTANCE.**

The remaining balance of the fiscal year 2009 special revenue fund appropriation for the Green Jobs Task Force under Laws 2008, chapter 363, article 6, section 3, subdivision 4, is transferred and appropriated to the commissioner of employment and economic development for the purposes of green enterprise assistance under Minnesota Statutes, section 116J.438. This appropriation is available until spent.

**Sec. 43. REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 116J.58, subdivision 2, as Minnesota Statutes, section 116J.035, subdivision 1a, and shall revise statutory cross-references consistent with that renumbering.

Sec. 44. **REPEALER.**

Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.431, subdivision 5; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; and 116U.65, are repealed.

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

**ARTICLE 3****UNEMPLOYMENT INSURANCE POLICY**

Section 1. Minnesota Statutes 2008, section 268.052, subdivision 2, is amended to read:

Subd. 2. **Election by state or political subdivision to be a taxpaying employer.** (a) The state or political subdivision may elect to be a taxpaying employer for any calendar year if a notice of election is filed within 30 calendar days following January 1 of that calendar year. Upon election, the state or political subdivision must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

(b) An election is for a minimum period of two calendar years following the effective date of the election and continue unless a notice terminating the election is filed not later than 30 calendar days before the beginning of the calendar year. The termination is effective at the beginning of the next calendar year. ~~Upon election, the commissioner shall establish a reimbursable account for the state or political subdivision. A termination of election is allowed only if the state or political subdivision has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period are transferred to the new reimbursable account of the state or political subdivision. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess is applied against any unemployment benefits paid after the experience rating period.~~

(c) The method of payments to the trust fund under subdivisions 3 and 4 applies to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

(d) A notice of election or a notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

Sec. 2. Minnesota Statutes 2008, section 268.053, subdivision 1, is amended to read:

Subdivision 1. **Election.** (a) Any nonprofit organization that has employees in covered employment must pay taxes on a quarterly basis in accordance with section 268.051 unless it elects to make reimbursements to the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

The organization may elect to make reimbursements for a period of not less than two calendar years beginning with the date that the organization was determined to be an employer with covered employment by filing a notice of election not later than 30 calendar days after the date of the determination.

(b) Any nonprofit organization that makes an election will continue to be liable for reimbursements until it files a notice terminating its election not later than 30 calendar days before the beginning of the calendar year the termination is to be effective.

(c) A nonprofit organization that has been making reimbursements that files a notice of termination of election must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the termination of election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

(d) Any nonprofit organization that has been paying taxes may elect to make reimbursements by filing no less than 30 calendar days before January 1 of any calendar year a notice of election. ~~Upon election, the commissioner shall establish a reimbursable account for the nonprofit organization. An election is allowed only if the nonprofit organization has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period are transferred to the new reimbursable account of the nonprofit organization. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess is applied against any unemployment benefits paid after the experience rating period. The election is not terminable by the organization for that and the next calendar year.~~

(e) The commissioner may for good cause extend the period that a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive.

(f) A notice of election or notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

Sec. 3. Minnesota Statutes 2008, section 268.066, is amended to read:

**268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.**

(a) The commissioner ~~shall~~ must cancel as uncollectible any amounts due from an employer under this chapter or section 116L.20, that remain unpaid six years after the amounts have been first determined due, except where the delinquent amounts are secured by a notice of lien, a judgment, are in the process of garnishment, or are under a payment plan.

(b) The commissioner may cancel at any time as uncollectible any amount due, or any portion of an amount due, from an employer under this chapter or section 116L.20, that (1) are uncollectible due to death or bankruptcy, or (2) the Collection Division of the Department of Revenue under section 16D.04 was unable to collect, ~~or~~ (3).

(c) The commissioner may cancel at any time any interest, penalties, or fees due from an employer, or any portions due, if the commissioner determines that it is not in the public interest to pursue collection of the amount due. This paragraph does not apply to unemployment insurance taxes or reimbursements due.

Sec. 4. Minnesota Statutes 2008, section 268.067, is amended to read:

**268.067 COMPROMISE.**

(a) The commissioner may compromise in whole or in part any action, determination, or decision that affects only an employer and not an applicant, ~~and that has occurred during the prior 24 months.~~ This paragraph ~~may apply~~ applies if it is determined by a court of law, or a confession of judgment, that an applicant, while employed, wrongfully took from the employer \$500 or more in money or property.

(b) The commissioner may at any time compromise any ~~amount~~ unemployment insurance tax or reimbursement due from an employer under this chapter or section 116L.20.

(c) Any compromise involving an amount over ~~\$2,500~~ \$10,000 must be authorized by an attorney licensed to practice law in Minnesota who is an employee of the department designated by the commissioner for that purpose.

(d) Any compromise must be in the best interest of the state of Minnesota.

Sec. 5. Minnesota Statutes 2008, section 268.069, subdivision 2, is amended to read:

Subd. 2. **Unemployment benefits paid from state funds.** Unemployment benefits are paid from state funds and are not considered paid from any special insurance plan, nor as paid by an employer. An application for unemployment benefits is not considered a claim against an employer but is considered a request for unemployment benefits from the trust fund. The commissioner has the responsibility for the proper payment of unemployment benefits regardless of the level of interest or participation by an applicant or an employer in any determination or appeal. An applicant's entitlement to unemployment benefits must be determined based upon that information available ~~without regard to any burden of proof,~~ and any agreement between an applicant and an employer is not binding on the commissioner in determining an applicant's entitlement. There is no presumption of entitlement or nonentitlement to unemployment benefits.

Sec. 6. Minnesota Statutes 2008, section 268.07, subdivision 3b, is amended to read:

Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for unemployment benefits is effective the Sunday of the calendar week that the application was filed. ~~Upon specific request of an applicant,~~ An application for unemployment benefits may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating at the time the application is filed. An application may be backdated only if the applicant was unemployed throughout had no employment during the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the application is effective the Sunday of the calendar week the individual first attempted to file an application.

(b) A benefit account established under subdivision 2 is effective the date the application for unemployment benefits was effective.

(c) A benefit account, once established, may later be withdrawn only if:

(1) the applicant has not been paid any unemployment benefits on that benefit account; and

(2) a new application for unemployment benefits is filed and a new benefit account is established at the time of the withdrawal; and

~~(2) the applicant has not served the nonpayable waiting week under section 268.085, subdivision~~

~~1, clause (5).~~

A determination or amended determination of eligibility or ineligibility issued under section 268.101, that was issued sent before the withdrawal of the benefit account, remains in effect and is not voided by the withdrawal of the benefit account. A determination of ineligibility requiring subsequent earnings to satisfy the period of ineligibility under section 268.095, subdivision 10, applies to the weekly unemployment benefit amount on the new benefit account.

(d) An application for unemployment benefits is not allowed before the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph ~~(b)~~ (c), an applicant may establish only one benefit account each 52 calendar weeks.

Sec. 7. Minnesota Statutes 2008, section 268.085, subdivision 3, is amended to read:

Subd. 3. **Payments that delay unemployment benefits.** (a) An applicant is not eligible to receive unemployment benefits for any week with respect to which the applicant is receiving, has received, or has filed for payment, equal to or in excess of the applicant's weekly unemployment benefit amount, in the form of:

(1) vacation pay paid upon temporary, indefinite, or seasonal separation. This clause does not apply to (i) vacation pay paid upon a permanent separation from employment, or (ii) vacation pay paid from a vacation fund administered by a union or a third party not under the control of the employer;

(2) severance pay, bonus pay, sick pay, and any other payments, except earnings under subdivision 5, and back pay under subdivision 6, paid by an employer because of, upon, or after separation from employment, but only if the payment is considered wages at the time of payment under section 268.035, subdivision 29; or

(3) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government, except Social Security benefits that are provided for in subdivision 4. The base period employer is considered to have contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29, clause (1).

If the pension, retirement, or annuity payment is paid in a lump sum, an applicant is not considered to have received the lump sum a payment if (i) the applicant immediately deposits that payment in a qualified pension plan or account, or (ii) that payment is an early distribution for which the applicant paid an early distribution penalty under the Internal Revenue Code, United States Code, title 26, section 72(t)(1).

(b) This subdivision applies to all the weeks of payment. Payments under paragraph (a), ~~clauses (1) and (2)~~ clause (1), are applied to the period immediately following the last day of employment. The number of weeks of payment is determined as follows:

(1) if the payments are made periodically, the total of the payments to be received is divided by the applicant's last level of regular weekly pay from the employer; or

(2) if the payment is made in a lump sum, that sum is divided by the applicant's last level of regular weekly pay from the employer.

(c) If the payment is less than the applicant's weekly unemployment benefit amount, unemployment benefits are reduced by the amount of the payment. ~~If the computation of reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment and is retroactive to December 1, 2008.

Sec. 8. Minnesota Statutes 2008, section 268.085, subdivision 6, is amended to read:

Subd. 6. **Receipt of back pay.** (a) Back pay received by an applicant within 24 months of the establishment of the benefit account with respect to any week occurring in the 104 weeks before the payment of the back pay during the benefit year must be deducted from unemployment benefits paid for that week.

If the back pay is not paid with respect to a specific period, the back pay must be applied to the period immediately following the last day of employment.

(b) If the back pay is reduced by the amount of unemployment benefits that have been paid, the amount of back pay withheld must be:

(1) paid by the employer to the trust fund within 30 calendar days and subject to the same collection procedures that apply to past due taxes;

(2) applied to unemployment benefit overpayments resulting from the payment of the back pay; and

(3) credited to the maximum amount of unemployment benefits available to the applicant in a benefit year that includes the weeks for which back pay was deducted.

(c) Unemployment benefits paid the applicant must be removed from the computation of the tax rate for taxpaying employers and removed from the reimbursable account for nonprofit and government employers that have elected to be liable for reimbursements in the calendar quarter the trust fund receives payment.

(d) Payments to the trust fund under this subdivision are considered as made by the applicant.

Sec. 9. Minnesota Statutes 2008, section 268.085, subdivision 15, is amended to read:

Subd. 15. **Available for suitable employment defined.** (a) "Available for suitable employment" means an applicant is ready and willing to accept suitable employment ~~in the labor market area~~. The attachment to the work force must be genuine. An applicant may restrict availability to suitable employment, but there must be no other restrictions, either self-imposed or created by circumstances, temporary or permanent, that prevent accepting suitable employment.

(b) To be considered "available for suitable employment," a student must be willing to quit school to accept suitable employment.

(c) An applicant who is absent from the labor market area for personal reasons, other than to search for work, is not "available for suitable employment."

(d) An applicant who has restrictions on the hours of the day or days of the week that the applicant can or will work, that are not normal for the applicant's usual occupation or other suitable

employment, is not "available for suitable employment." An applicant must be available for daytime employment, if suitable employment is performed during the daytime, even though the applicant previously worked the night shift.

~~(e) An applicant must have transportation throughout the labor market area to be considered "available for suitable employment."~~

**Sec. 10. [268.088] BENEFITS PAID DURING CERTAIN VOLUNTARY UNEMPLOYMENT.**

(a) An applicant who elects to become temporarily unemployed in order to avoid the layoff of another employee with the applicant's employer due to lack of work is not ineligible for benefits under the leave of absence provisions of section 268.085, subdivision 13a, nor ineligible under the quit provisions of section 268.095, if:

(1) the election is authorized under a collective bargaining agreement or written employer policy;

(2) the employer has accepted the applicant's election;

(3) the employer provides a written certification that is provided to the department that the applicant's election prevented another employee with the employer from being laid off due to lack of work; and

(4) both the applicant and the employer, at the time of the election, expect the applicant's unemployment from the employer to be temporary.

(b) In addition to the requirements of paragraph (a), for unemployment benefits to be payable, an applicant must meet all the other benefit eligibility requirements under this chapter, including being available for suitable employment with a different employer.

Sec. 11. Minnesota Statutes 2008, section 268.095, subdivision 1, is amended to read:

Subdivision 1. **Quit.** An applicant who quit employment is ineligible for all unemployment benefits according to subdivision 10 except when:

(1) the applicant quit the employment because of a good reason caused by the employer as defined in subdivision 3;

(2) the applicant quit the employment to accept other covered employment that provided substantially better terms and conditions of employment, but the applicant did not work long enough at the second employment to have sufficient subsequent earnings to satisfy the period of ineligibility that would otherwise be imposed under subdivision 10 for quitting the first employment;

(3) the applicant quit the employment within 30 calendar days of beginning the employment because the employment was unsuitable for the applicant;

(4) the employment was unsuitable for the applicant and the applicant quit to enter reemployment assistance training;

(5) the employment was part time and the applicant also had full-time employment in the base period, from which full-time employment the applicant separated because of reasons for which the

applicant was held not to be ineligible, and the wage credits from the full-time employment are sufficient to meet the minimum requirements to establish a benefit account under section 268.07;

(6) the applicant quit because the employer notified the applicant that the applicant was going to be laid off because of lack of work within 30 calendar days. An applicant who quit employment within 30 calendar days of a notified date of layoff because of lack of work is ineligible for unemployment benefits through the end of the week that includes the scheduled date of layoff;

(7) the applicant quit the employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, provided that the applicant inform the employer of the serious illness or injury and request accommodation and no reasonable accommodation is made available.

If the applicant's serious illness is chemical dependency, this exception does not apply if the applicant was previously diagnosed as chemically dependent or had treatment for chemical dependency, and since that diagnosis or treatment has failed to make consistent efforts to control the chemical dependency.

This exception raises an issue of the applicant's ~~being able to work~~ being available for suitable employment under section 268.085, subdivision 1, that the commissioner ~~shall~~ must determine;

(8) the applicant's loss of child care for the applicant's minor child caused the applicant to quit the employment, provided the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation is available.

This exception raises an issue of the applicant's ~~availability~~ being available for suitable employment under section 268.085, subdivision 1, that the commissioner ~~shall~~ must determine; or

(9) domestic abuse of the applicant or the applicant's minor child, necessitated the applicant's quitting the employment. Domestic abuse must be shown by one or more of the following:

(i) a district court order for protection or other documentation of equitable relief issued by a court;

(ii) a police record documenting the domestic abuse;

(iii) documentation that the perpetrator of the domestic abuse has been convicted of the offense of domestic abuse;

(iv) medical documentation of domestic abuse; or

(v) written statement that the applicant or the applicant's minor child is a victim of domestic abuse, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic abuse.

Domestic abuse for purposes of this clause is defined under section 518B.01.

Sec. 12. Minnesota Statutes 2008, section 268.095, subdivision 2, is amended to read:

Subd. 2. **Quit defined.** (a) A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's.

(b) An employee who has been notified that the employee will be discharged in the future, who

chooses to end the employment while employment in any capacity is still available, is considered to have quit the employment.

(c) An employee who seeks to withdraw a previously submitted notice of quitting is considered to have quit the employment if the employer does not agree that the notice may be withdrawn.

(d) An applicant who, within five calendar days after completion of a suitable temporary job assignment from a staffing service employer, (1) fails without good cause to affirmatively request an additional job assignment, ~~or~~ (2) refuses without good cause an additional suitable job assignment offered, or (3) accepts employment with the client of the staffing service, is considered to have quit employment with the staffing service. Accepting employment with the client of the staffing service meets the requirements of the exception to ineligibility under subdivision 1, clause (2).

This paragraph applies only if, at the time of beginning of employment with the staffing service employer, the applicant signed and was provided a copy of a separate document written in clear and concise language that informed the applicant of this paragraph and that unemployment benefits may be affected.

For purposes of this paragraph, "good cause" is a reason that is significant and would compel an average, reasonable worker, who would otherwise want an additional temporary job assignment with the staffing service employer, (1) to fail to contact the staffing service employer, or (2) to refuse an offered assignment.

For purposes of this paragraph, a "staffing service employer" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary job assignment workers to clients of the staffing service.

Sec. 13. Minnesota Statutes 2008, section 268.103, is amended by adding a subdivision to read:

Subd. 2a. **Employer-agent appeals filed online.** (a) If an agent files an appeal on behalf of an employer, the appeal must be filed online. The appeal must be filed through the electronic address provided on the determination being appealed. Use of another method of filing does not constitute an appeal. This paragraph does not apply to an employee filing an appeal on behalf of an employer.

(b) All information requested when the appeal is filed must be supplied or the communication does not constitute an appeal.

Sec. 14. Minnesota Statutes 2008, section 268.18, subdivision 4a, is amended to read:

Subd. 4a. **Court fees; collection fees.** (a) If the commissioner is required to pay any court fees in an attempt to enforce collection of overpaid unemployment benefits, penalties, or interest, the commissioner may add the amount of the court fees to the total amount due.

(b) If an applicant who has been determined overpaid unemployment benefits because of fraud seeks to have any portion of the debt discharged under the federal bankruptcy code, and the commissioner files an objection in bankruptcy court to the discharge, the commissioner may add the commissioner's cost of any court fees to the debt if the bankruptcy court does not discharge the debt.

(c) If the Internal Revenue Service assesses the commissioner a fee for offsetting from a federal tax refund the amount of any fraud overpayment, including penalties and interest, the amount of the

fee may be added to the total amount due. The offset amount must be put in the trust fund and that amount credited to the total amount due from the applicant.

Sec. 15. Minnesota Statutes 2008, section 268.186, is amended to read:

**268.186 RECORDS; AUDITS.**

(a) Each employer must keep true and accurate records for the periods of time and containing the information the commissioner may require by rule. For the purpose of administering this chapter, the commissioner has the power to audit, examine, or cause to be supplied or copied, any books, correspondence, papers, records, or memoranda that are relevant, whether the books, correspondence, papers, records, or memoranda are the property of or in the possession of the employer or any other person at any reasonable time and as often as may be necessary.

(b) Any employer that refuses to allow an audit of its records by the department, or that fails to make all necessary records available for audit in Minnesota upon request of the commissioner, may be assessed an administrative penalty of \$500. An employer that fails to provide a weekly breakdown of money earned by an applicant upon request of the commissioner, information necessary for the detection of applicant fraud under section 268.18, subdivision 2, may be assessed an administrative penalty of \$100. Any notice requesting a weekly breakdown must clearly state that a \$100 penalty may be assessed for failure to provide the information. The penalty collected is credited to the administration account to be used by the commissioner to ensure integrity in the administration of the unemployment insurance program trust fund.

(c) The commissioner may make summaries, compilations, photographs, duplications, or reproductions of any records, or reports that the commissioner considers advisable for the preservation of the information contained therein. Any summaries, compilations, photographs, duplications, or reproductions is admissible in any proceeding under this chapter. The commissioner may duplicate records, reports, summaries, compilations, instructions, determinations, or any other written or recorded matter pertaining to the administration of this chapter.

(d) Regardless of any law to the contrary, the commissioner may provide for the destruction of any records, reports, or reproductions, or other papers that are no longer necessary for the administration of this chapter, including any required audit. In addition, the commissioner may provide for the destruction or disposition of any record, report, or other paper from which the information has been electronically captured and stored, or that has been photographed, duplicated, or reproduced.

Sec. 16. **ENTREPRENEURSHIP FOR DISLOCATED WORKERS.**

Subdivision 1. **Authorization.** Minnesota has been awarded a federal grant by the United States Department of Labor under the Project GATE (Growing America Through Entrepreneurship) program to assist certain dislocated workers in starting a business. Providing unemployment benefits while the dislocated worker is receiving services such as entrepreneurial training, business counseling, and technical assistance will assist in the success of this pilot project. In order to provide unemployment benefits, the commissioner of employment and economic development is authorized to waive the availability for suitable employment requirements of Minnesota Statutes, section 268.085, subdivision 1, as well as the earnings deductibility provisions of Minnesota Statutes, section 268.085, subdivision 5, for individuals enrolled in this pilot project.

Subd. 2. **Limitations.** A maximum of 500 applicants for unemployment benefits are authorized to receive a waiver.

Subd. 3. **Expiration date.** The authorization under subdivision 1 expires June 30, 2012.

Sec. 17. **EFFECTIVE DATE.**

Sections 1 to 6, 8 to 12, 14, and 15 are effective August 2, 2009, and apply to all department determinations and unemployment law judge decisions issued on or after that date. Section 13 is effective April 1, 2010, and applies to all department determinations and unemployment law judge decisions issued on or after that date. Section 7 is effective retroactively from December 1, 2008. Section 16 is effective the day following final enactment.

#### ARTICLE 4

#### UNEMPLOYMENT INSURANCE TECHNICAL CHANGES

Section 1. Minnesota Statutes 2008, section 268.031, is amended to read:

##### **268.031 STANDARD OF PROOF.**

Subdivision 1. **Standard of proof.** All issues of fact under the Minnesota Unemployment Insurance Law are determined by a preponderance of the evidence. ~~Preponderance of the evidence means evidence in substantiation of a fact that, when weighed against the evidence opposing the fact, is more convincing and has a greater probability of truth.~~

Subd. 2. **Statutory application.** This chapter is remedial in nature and must be applied in favor of awarding unemployment benefits. Any legal conclusion that results in an applicant being ineligible for unemployment benefits must be fully supported by the facts. In determining eligibility or ineligibility for benefits, any statutory provision that would preclude an applicant from receiving benefits must be narrowly construed.

##### Sec. 2. **[268.034] COMPUTATIONS OF MONEY ROUNDED DOWN.**

Computations of money required under this chapter that do not result in a whole dollar are rounded down to the next lower whole dollar, unless specifically provided otherwise by law.

Sec. 3. Minnesota Statutes 2008, section 268.035, subdivision 2, is amended to read:

**Subd. 2. Agricultural employment.** "Agricultural employment" means services:

(1) on a farm, in the employ of any person or family farm corporation in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a tornado-like storm, if the major part of the employment is performed on a farm;

(3) in connection with the production or harvesting of any commodity defined as an agricultural product in United States Code, title 7, section 1626 of the Agricultural Marketing Act, or in

connection with cotton ginning, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if the operator produced more than one-half of the commodity with respect to which the employment is performed, or in the employ of a group of operators of farms or a cooperative organization of which the operators are members, but only if the operators produced more than one-half of the commodity with respect to which the employment is performed; however, this clause ~~shall~~ is not be applicable to employment performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if the employment is not in the course of the employer's trade or business.

For purposes of this subdivision, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, orchards, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

Sec. 4. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision to read:

Subd. 9a. **Construction; independent contractor.** For purposes of this chapter, section 181.723 determines whether a worker is an independent contractor or an employee when performing public or private sector commercial or residential building construction or improvement services.

Sec. 5. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision to read:

Subd. 12c. **Determination.** "Determination" means a document sent to an applicant or employer by mail or electronic transmission that is an initial department ruling on a specific issue. All documents that are determinations under this chapter use that term in the title of the document and are appealable to an unemployment law judge under section 268.105, subdivision 1.

Sec. 6. Minnesota Statutes 2008, section 268.035, subdivision 17, is amended to read:

Subd. 17. **Filing; filed.** "Filing" or "filed" means the personal delivery of ~~any document~~ an application, appeal, or other required action to the commissioner or any of the commissioner's agents, ~~or the depositing of the document if done by mail,~~ deposited in the United States mail properly addressed to the department with postage prepaid, in which case ~~the document~~ it is considered filed on the day indicated by the cancellation mark of the United States Postal Service.

~~If, where allowed,~~ an application, appeal, or other required action is made by electronic transmission, it is considered filed on the day received by the department.

Sec. 7. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision to read:

Subd. 20a. **Preponderance of the evidence.** "Preponderance of the evidence" means evidence in substantiation of a fact that, when weighed against the evidence opposing the fact, is more convincing and has a greater probability of truth.

Sec. 8. Minnesota Statutes 2008, section 268.042, subdivision 3, is amended to read:

Subd. 3. **Election to have noncovered employment considered covered employment.** (a) Any employer that has employment performed for it that is noncovered employment under section 268.035, subdivision 20, may file with the commissioner, by electronic transmission in a format prescribed by the commissioner, an election that all employees in that class of employment, in one or more distinct establishments or places of business, is considered covered employment for not less than two calendar years. The commissioner has discretion on the approval of any election. Upon the approval of the commissioner, sent by mail or electronic transmission, the employment constitutes covered employment beginning the calendar quarter after the date of approval or beginning a later calendar quarter if requested by the employer. The employment ceases to be considered covered employment as of the first day of January of any calendar year only if at least 30 calendar days before the first day of January the employer has filed with the commissioner, by electronic transmission in a format prescribed by the commissioner, a notice to that effect.

(b) The commissioner must terminate any election agreement under this subdivision upon 30 calendar days' notice sent by mail or electronic transmission, if the employer is delinquent on any taxes due or reimbursements due the trust fund.

Sec. 9. Minnesota Statutes 2008, section 268.043, is amended to read:

#### **268.043 DETERMINATIONS OF COVERAGE.**

(a) The commissioner, upon the commissioner's own motion or upon application of a person, ~~shall~~ must determine if that person is an employer or whether services performed for it constitute employment and covered employment, or whether ~~the any~~ compensation for services constitutes wages, and notify the person of the determination. ~~The determination is final unless the person files an appeal within 20 calendar days after sending of the determination~~ the commissioner sends the determination by mail or electronic transmission, files an appeal. Proceedings on the appeal are conducted in accordance with section 268.105.

(b) No person may be initially determined an employer, or that services performed for it were in employment or covered employment, for periods more than four years before the year in which the determination is made, unless the commissioner finds that there was fraudulent action to avoid liability under this chapter.

Sec. 10. Minnesota Statutes 2008, section 268.044, subdivision 2, is amended to read:

Subd. 2. **Failure to timely file report; late fees.** (a) Any employer that fails to submit the quarterly wage detail report when due must pay a late fee of \$10 per employee, computed based upon the highest of:

- (1) the number of employees reported on the last wage detail report submitted;
- (2) the number of employees reported in the corresponding quarter of the prior calendar year; or
- (3) if no wage detail report has ever been submitted, the number of employees listed at the time of employer registration.

The late fee is ~~waived~~ canceled if the wage detail report is received within 30 calendar days after a demand for the report is sent to the employer by mail or electronic transmission. A late fee

assessed an employer may not be ~~waived~~ canceled more than twice each 12 months. The amount of the late fee assessed may not be less than \$250.

(b) If the wage detail report is not received in a manner and format prescribed by the commissioner within 30 calendar days after demand is sent under paragraph (a), the late fee assessed under paragraph (a) doubles and a renewed demand notice and notice of the increased late fee will be sent to the employer by mail or electronic transmission.

(c) Late fees due under this subdivision may be ~~compromised~~ canceled, in whole or in part, under section ~~268.067~~ 268.066 where good cause for late submission is found by the commissioner.

Sec. 11. Minnesota Statutes 2008, section 268.047, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Unemployment benefits paid to an applicant, including extended and shared work benefits, will be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements except as provided in subdivisions 2 and 3. The amount of unemployment benefits used in computing the future tax rate of taxpaying employers or charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements is the same percentage of the total amount of unemployment benefits paid as the percentage of wage credits from the employer is of the total amount of wage credits from all the applicant's base period employers.

~~In making computations under this subdivision, the amount of wage credits, if not a whole dollar, must be computed to the nearest whole dollar.~~

Sec. 12. Minnesota Statutes 2008, section 268.047, subdivision 2, is amended to read:

Subd. 2. **Exceptions for all employers.** Unemployment benefits paid will not be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements when:

(1) the applicant was discharged from the employment because of aggravated employment misconduct as determined under section 268.095. This exception applies only to unemployment benefits paid for periods after the applicant's discharge from employment;

(2) an applicant's discharge from that employment occurred because a law required removal of the applicant from the position the applicant held;

~~(3) the employer is in the tourist or recreation industry and is in active operation of business less than 15 calendar weeks each year and the applicant's wage credits from the employer are less than 600 times the applicable state or federal minimum wage;~~

~~(4)~~ (3) the employer provided regularly scheduled part-time employment to the applicant during the applicant's base period and continues to provide the applicant with regularly scheduled part-time employment during the benefit year of at least 90 percent of the part-time employment provided in the base period, and is an involved employer because of the applicant's loss of other employment. This exception terminates effective the first week that the employer fails to meet the benefit year employment requirements. This exception applies to educational institutions without consideration of the period between academic years or terms;

~~(5)~~ (4) the employer is a fire department or firefighting corporation or operator of a life-support transportation service, and continues to provide employment for the applicant as a volunteer firefighter or a volunteer ambulance service personnel during the benefit year on the same basis that employment was provided in the base period. This exception terminates effective the first week that the employer fails to meet the benefit year employment requirements;

~~(6)~~ (5) the applicant's unemployment from this employer was a direct result of the condemnation of property by a governmental agency, a fire, flood, or act of nature, where 25 percent or more of the employees employed at the affected location, including the applicant, became unemployed as a result. This exception does not apply where the unemployment was a direct result of the intentional act of the employer or a person acting on behalf of the employer;

~~(7)~~ (6) the unemployment benefits were paid by another state as a result of the transferring of wage credits under a combined wage arrangement provided for in section 268.131;

~~(8)~~ (7) the applicant stopped working because of a labor dispute at the applicant's primary place of employment if the employer was not a party to the labor dispute;

~~(9)~~ (8) the unemployment benefits were determined overpaid unemployment benefits under section 268.18;

~~(10)~~ (9) the applicant was employed as a replacement worker, for a period of six months or longer, for an employee who is in the military reserve and was called for active duty during the time the applicant worked as a replacement, and the applicant was laid off because the employee returned to employment after active duty; or

~~(11)~~ (10) the trust fund was reimbursed for the unemployment benefits by the federal government.

Sec. 13. Minnesota Statutes 2008, section 268.051, subdivision 1, is amended to read:

Subdivision 1. **Payments.** (a) Unemployment insurance taxes and any special assessments, fees, or surcharges accrue and become payable by each employer for each calendar year on the taxable wages that the employer paid to employees in covered employment, except for:

(1) nonprofit organizations that elect to make reimbursements as provided in section 268.053; and

(2) the state of Minnesota and political subdivisions that make reimbursements, unless they elect to pay taxes as provided in section 268.052.

Each employer must pay taxes quarterly, at the employer's assigned tax rate under subdivision 6, on the taxable wages paid to each employee. The commissioner must compute the tax due from the wage detail report required under section 268.044 and notify the employer of the tax due. The taxes and any special assessments, fees, or surcharges must be paid to the trust fund and must be received by the department on or before the last day of the month following the end of the calendar quarter.

~~(b) The tax amount computed, if not a whole dollar, is rounded down to the next lower whole dollar.~~

~~(c)~~ If for any reason the wages on the wage detail report under section 268.044 are adjusted for

any quarter, the commissioner must recompute the taxes due for that quarter and assess the employer for any amount due or credit the employer as appropriate.

Sec. 14. Minnesota Statutes 2008, section 268.051, subdivision 4, is amended to read:

Subd. 4. **Experience rating history transfer.** (a) When:

(1) a taxpaying employer acquires all of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the experience rating history of the predecessor employer is transferred to the successor employer.

(b) When:

(1) a taxpaying employer acquires a portion, but less than all, of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the successor employer acquires, as of the date of acquisition, the experience rating history attributable to the portion it acquired, and the predecessor employer retains the experience rating history attributable to the portion that it has retained. If the commissioner determines that sufficient information is not available to substantiate that a distinct severable portion was acquired and to assign the appropriate distinct severable portion of the experience rating history, the commissioner ~~shall~~ must assign the successor employer that percentage of the predecessor employer's experience rating history equal to that percentage of the employment positions it has obtained, and the predecessor employer retains that percentage of the experience rating history equal to the percentage of the employment positions it has retained.

(c) The term "common ownership" for purposes of this subdivision includes ownership by a spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, nephew, or first cousin, by birth or by marriage.

(d) Each successor employer that is subject to paragraph (a) or (b) must notify the commissioner of the acquisition by electronic transmission, in a format prescribed by the commissioner, within 30 calendar days of the date of acquisition. Any successor employer that fails to notify the commissioner is subject to the penalties under section 268.184, subdivision 1a, if the successor's ~~experience rating~~ assigned tax rate under subdivision 2 or 5 was lower than the predecessor's ~~experience rating~~ assigned tax rate at the time of the acquisition. Payments made toward the penalties are credited to the administration account to be used to ensure integrity in the unemployment insurance program.

(e) If the successor employer under paragraphs (a) and (b) had an experience rating at the time of the acquisition, the transferred experience rating history of the predecessor is combined with the successor's experience rating history for purposes of recomputing a tax rate.

(f) If there has been a transfer of an experience rating history under paragraph (a) or (b), employment with a predecessor employer is not considered to have been terminated if similar employment is offered by the successor employer and accepted by the employee.

(g) The commissioner, upon notification of an employer, or upon the commissioner's own motion if the employer fails to provide the required notification, ~~shall~~ must determine if an employer is a successor within the meaning of this subdivision. The commissioner ~~shall~~ must, after determining the issue of succession or nonsuccession, recompute the tax rate under subdivision 6 of all employers affected. The commissioner ~~shall~~ must send the recomputed tax rate to all affected employers by mail or electronic transmission. Any affected employer may appeal the recomputed tax rate in accordance with the procedures in subdivision 6, paragraph (c).

(h) The "experience rating history" for purposes of this subdivision and subdivision 4a means the amount of unemployment benefits paid and the taxable wages that are being used and would be used in computing the current and any future experience rating.

For purposes of this chapter, an "acquisition" means anything that results in the obtaining by the successor employer, in any way or manner, of the organization, trade or business, or workforce of the predecessor employer.

A "distinct severable portion" in paragraph (b) means a location or unit separately identifiable within the employer's wage detail report under section 268.044.

(i) Regardless of the ownership, management, or control requirements of paragraph (a), if there is an acquisition or merger of a publicly held corporation by or with another publicly held corporation the experience rating histories of the corporations are combined as of the date of acquisition or merger for the purpose of recomputing a tax rate.

Sec. 15. Minnesota Statutes 2008, section 268.057, subdivision 4, is amended to read:

Subd. 4. **Costs.** (a) Any person employer, and any applicant subject to section 268.18, subdivision 2, that fails to pay any amount when due under this chapter is liable for any filing fees, recording fees, sheriff fees, costs incurred by referral to any public or private collection agency, or litigation costs, including attorney fees, incurred in the collection of the amounts due.

(b) If any tendered payment of any amount due is not honored when presented to a financial institution for payment, any costs assessed the department by the financial institution and a fee of \$25 must be assessed to the person.

(c) ~~Costs and fees collected under this subdivision are credited to the administration account to be used by the commissioner to ensure integrity in the administration of the unemployment insurance program.~~

Sec. 16. Minnesota Statutes 2008, section 268.057, subdivision 5, is amended to read:

Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under this chapter or section 116L.20, except late fees under section 268.044, are not received on the date due the unpaid balance bears interest at the rate of one and one-half percent per month or any part thereof. ~~Interest assessed, if not a whole dollar amount, is rounded down to the next lower whole dollar. Interest collected is credited to the contingent account. Interest may be compromised under section 268.067.~~

Sec. 17. Minnesota Statutes 2008, section 268.0625, subdivision 1, is amended to read:

Subdivision 1. **Notice of debt to licensing authority.** The state of Minnesota or a political

subdivision may not issue, transfer, or renew, and must revoke a license for the conduct of any profession, trade, or business, if the commissioner notifies the licensing authority that the licensee, applicant, or employer owes any amount due under this chapter or section 116L.20, of \$500 or more. A licensing authority that has received ~~such~~ a notice may issue, transfer, renew, or not revoke the license only if the licensing authority has received a copy of the debt clearance certificate issued by the commissioner.

Sec. 18. Minnesota Statutes 2008, section 268.069, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** The commissioner ~~shall~~ must pay unemployment benefits from the trust fund to an applicant who has met each of the following requirements:

(1) the applicant has filed an application for unemployment benefits and established a benefit account in accordance with section 268.07;

(2) the applicant has not been held ineligible for unemployment benefits under section 268.095 because of a quit or discharge;

(3) the applicant has met all of the ongoing eligibility requirements under ~~sections~~ section 268.085 ~~and 268.086~~;

(4) the applicant does not have an outstanding overpayment of unemployment benefits, including any penalties or interest; and

(5) the applicant has not been held ineligible for unemployment benefits under section 268.182 because of a false representation or concealment of facts.

Sec. 19. Minnesota Statutes 2008, section 268.07, subdivision 1, is amended to read:

Subdivision 1. **Application for unemployment benefits; determination of benefit account.**

(a) An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the commissioner may require. The applicant must be unemployed at the time the application is filed and must provide all requested information in the manner required. If the applicant is not unemployed at the time of the application or fails to provide all requested information, the communication is not considered an application for unemployment benefits.

(b) The commissioner ~~shall~~ must examine each application for unemployment benefits to determine the base period and the benefit year, and based upon all the covered employment in the base period the commissioner shall determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The ~~determination is known as the~~ which is a document separate and distinct from a document titled a determination of eligibility or determination of ineligibility issued under section 268.101, must be titled determination of benefit account. A determination of benefit account must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage information for the applicant as provided for in section 268.044, or provided erroneous information, the commissioner may accept an applicant certification as to wage credits, based upon the applicant's records, and issue a determination of benefit account.

(d) The commissioner may, at any time within 24 months from the establishment of a benefit

account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the determination was incorrect for any reason. An amended determination of benefit account must be promptly sent to the applicant and all base period employers, by mail or electronic transmission. This subdivision does not apply to documents titled determinations of eligibility or determinations of ineligibility issued under section 268.101.

(e) If an amended determination of benefit account reduces the weekly unemployment benefit amount or maximum amount of unemployment benefits available, any unemployment benefits that have been paid greater than the applicant was entitled is considered an overpayment of unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Sec. 20. Minnesota Statutes 2008, section 268.07, subdivision 2, is amended to read:

Subd. 2. **Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits.** (a) To establish a benefit account, an applicant must have:

- (1) high quarter wage credits of \$1,000 or more; and
- (2) wage credits, in other than the high quarter, of \$250 or more.

(b) If an applicant has established a benefit account, the weekly unemployment benefit amount available during the benefit year is the higher of:

- (1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 percent of the state's average weekly wage; or
- (2) 50 percent of the applicant's average weekly wage during the high quarter, to a maximum of 43 percent of the state's average weekly wage.

The applicant's average weekly wage under clause (1) is computed by dividing the total wage credits by 52. The applicant's average weekly wage under clause (2) is computed by dividing the high quarter wage credits by 13.

(c) ~~The state's maximum weekly unemployment benefit amount and an applicant's weekly unemployment benefit amount and maximum amount of unemployment benefits available is rounded down to the next lower whole dollar.~~ The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, applies to a benefit account established effective on or after the last Sunday in October. Once established, an applicant's weekly unemployment benefit amount is not affected by the last Sunday in October change in the state's maximum weekly unemployment benefit amount.

(d) The maximum amount of unemployment benefits available on any benefit account is the lower of:

- (1) 33-1/3 percent of the applicant's total wage credits; or
- (2) 26 times the applicant's weekly unemployment benefit amount.

Sec. 21. Minnesota Statutes 2008, section 268.07, subdivision 3, is amended to read:

Subd. 3. **Second benefit account requirements.** To establish a second benefit account following the expiration of a benefit year on a prior benefit account, an applicant must ~~have sufficient wage credits to establish a benefit account under~~ meet the requirements of subdivision 2 and must have performed services in covered employment after the effective date of the prior benefit account. The wages paid for ~~that employment those services must equal not less than~~ be at least eight times the weekly unemployment benefit amount of the prior benefit account. Part of the purpose of reason for this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.

Sec. 22. Minnesota Statutes 2008, section 268.084, is amended to read:

**268.084 PERSONAL IDENTIFICATION NUMBER; PRESUMPTION.**

(a) Each applicant must be issued a personal identification number (PIN) for the purpose of filing continued requests for unemployment benefits, accessing information, and engaging in other transactions with the department.

(b) If a PIN assigned to an applicant is used in the filing of a continued request for unemployment benefits under section ~~268.086~~ 268.0865 or any other type of transaction, the applicant is presumed to have been the individual using that PIN and presumed to have received any unemployment benefit payment issued. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the PIN was not the individual who used that PIN in the transaction.

(c) The commissioner ~~shall~~ must notify each applicant of this section.

Sec. 23. Minnesota Statutes 2008, section 268.085, subdivision 1, is amended to read:

Subdivision 1. **Eligibility conditions.** An applicant may be eligible to receive unemployment benefits for any week if:

(1) the applicant has ~~an active benefit account and has~~ filed a continued request for unemployment benefits for that week under section ~~268.086~~ 268.0865;

(2) the week for which unemployment benefits are requested is in the applicant's benefit year;

(3) the applicant was unemployed as defined in section 268.035, subdivision 26;

(4) the applicant was ~~able to work and was~~ available for suitable employment, ~~and was actively seeking suitable employment~~ as defined in subdivision 15. The applicant's weekly unemployment benefit amount is reduced one-fifth for each day the applicant is ~~unable to work or is~~ unavailable for suitable employment. ~~If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~ This clause does not apply to an applicant who is in reemployment assistance training, or each day the applicant is on jury duty or serving as an election judge;

(5) the applicant was actively seeking suitable employment as defined in subdivision 16. This clause does not apply to an applicant who is in reemployment assistance training or who was on jury duty throughout the week;

(6) the applicant has served a nonpayable waiting period of one week that the applicant is

otherwise entitled to some amount of unemployment benefits. This clause does not apply if the applicant would have been entitled to federal disaster unemployment assistance because of a disaster in Minnesota, but for the applicant's establishment of a benefit account under section 268.07; and

~~(6)~~ (7) the applicant has been participating in reemployment assistance services, such as job search and resume writing classes, if the applicant has been determined in need of reemployment assistance services by the commissioner, unless the applicant has good cause for failing to participate.

Sec. 24. Minnesota Statutes 2008, section 268.085, subdivision 2, is amended to read:

Subd. 2. **Not eligible.** An applicant is ineligible for unemployment benefits for any week:

- (1) that occurs before the effective date of a benefit account;
- (2) that the applicant, at the beginning of the week, has an outstanding fraud overpayment balance under section 268.18, subdivision 2, including any penalties and interest;
- (3) that occurs in a period when the applicant is a student in attendance at, or on vacation from a secondary school including the period between academic years or terms;
- (4) that the applicant is incarcerated or performing ~~court-ordered~~ court-ordered community service. The applicant's weekly unemployment benefit amount is reduced by one-fifth for each day the applicant is incarcerated or performing ~~court-ordered~~ court-ordered community service. ~~If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar;~~
- (5) that the applicant fails or refuses to provide information on an issue of ineligibility required under section 268.101;
- (6) that the applicant is performing services 32 hours or more, in employment, covered employment, noncovered employment, volunteer work, or self-employment regardless of the amount of any earnings; or
- (7) with respect to which the applicant is receiving, has received, or has filed an application for unemployment benefits under any federal law or the law of any other state. If the appropriate agency finally determines that the applicant is not entitled to the unemployment benefits, this clause does not apply.

Sec. 25. Minnesota Statutes 2008, section 268.085, subdivision 3a, is amended to read:

Subd. 3a. **Workers' compensation and disability insurance offset.** (a) An applicant is not eligible to receive unemployment benefits for any week in which the applicant is receiving or has received compensation for loss of wages equal to or in excess of the applicant's weekly unemployment benefit amount under:

- (1) the workers' compensation law of this state;
- (2) the workers' compensation law of any other state or similar federal law; or
- (3) any insurance or trust fund paid in whole or in part by an employer.

(b) This subdivision does not apply to an applicant who has a claim pending for loss of wages under paragraph (a); however, before unemployment benefits may be paid when a claim is pending, the issue of the applicant being ~~able to work~~ available for suitable employment, as required under subdivision 1, clause ~~(2)~~ (4), is determined under section 268.101, subdivision ~~3~~ 2. If the applicant later receives compensation as a result of the pending claim, the applicant is subject to the provisions of paragraph (a) and the unemployment benefits paid are subject to recoupment by the commissioner to the extent that the compensation constitutes overpaid unemployment benefits.

(c) If the amount of compensation described under paragraph (a) for any week is less than the applicant's weekly unemployment benefit amount, unemployment benefits requested for that week are reduced by the amount of that compensation payment.

Sec. 26. Minnesota Statutes 2008, section 268.085, subdivision 4, is amended to read:

Subd. 4. **Social Security benefits.** (a) Any applicant aged 62 or over is required to state when filing an application for unemployment benefits and when filing continued requests for unemployment benefits if the applicant is receiving, has filed for, or intends to file for, primary Social Security old age benefits for any week during the benefit year.

~~If the effective date of the applicant's Social Security claim for old age benefits is, or will be, after the start of the base period, there must be deducted from an applicant's weekly unemployment benefit amount~~ Unless paragraph (b) applies, 50 percent of the weekly equivalent of the primary Social Security old age benefit the applicant has received, has filed for, or intends to file for, with respect to that week must be deducted from an applicant's weekly unemployment benefit amount.

~~(b) If the effective date all of the applicant's wage credits were earned while the applicant was claiming Social Security claim for old age benefits is before the start of the base period, there is no deduction from the applicant's weekly unemployment benefit amount. The purpose of this paragraph is to ensure that an applicant who is claiming Social Security benefits has demonstrated a desire and ability to work.~~

~~(b)~~ (c) An applicant who is receiving, has received, or has filed for primary Social Security disability benefits for any week during the benefit year must be determined ~~unable to work and~~ unavailable for suitable employment for that week, unless:

(1) the Social Security Administration approved the collecting of primary Social Security disability benefits each month the applicant was employed during the base period; or

(2) the applicant provides a statement from an appropriate health care professional who is aware of the applicant's Social Security disability claim and the basis for that claim, certifying that the applicant is ~~able to work and~~ available for suitable employment.

If an applicant meets the requirements of clause (1) there is no deduction from the applicant's weekly benefit amount for any Social Security disability benefits. If only clause (2) applies, then there must be deducted from the applicant's weekly unemployment benefit amount 50 percent of the weekly equivalent of the primary Social Security disability benefits the applicant is receiving, has received, or has filed for, with respect to that week; provided, however, that if the Social Security Administration determines that an individual is not entitled to receive primary Social Security disability benefits for any week the applicant has applied for those benefits, the 50 percent deduction does not apply to that week.

~~(e)~~ (d) Information from the Social Security Administration is considered conclusive, absent specific evidence showing that the information was erroneous.

~~(d) If the computation of the reduced unemployment benefits is not a whole dollar, it is rounded down to the next lower whole dollar.~~

(e) This subdivision does not apply to Social Security survivor benefits.

Sec. 27. Minnesota Statutes 2008, section 268.085, subdivision 5, is amended to read:

Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including holiday pay, with respect to any week, from employment, covered employment, noncovered employment, self-employment, or volunteer work, equal to or in excess of the applicant's weekly unemployment benefit amount, the applicant is ineligible for unemployment benefits for that week.

(b) If the applicant has earnings, with respect to any week, that is less than the applicant's weekly unemployment benefit amount, from employment, covered employment, noncovered employment, self-employment, or volunteer work, 55 percent of the earnings are deducted from the weekly unemployment benefit amount.

~~The resulting unemployment benefit, if not a whole dollar, is rounded down to the next lower whole dollar.~~

(c) No deduction is made from an applicant's weekly unemployment benefit amount for earnings from service in the National Guard or a United States military reserve unit or from direct service as a volunteer firefighter or volunteer ambulance service personnel. This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided to a volunteer firefighter or volunteer ambulance service personnel. No deduction is made for jury duty pay or for pay as an election judge.

(d) The applicant may report deductible earnings on continued requests for unemployment benefits at the next lower whole dollar amount.

(e) Deductible earnings does not include any money considered a deductible payment under subdivision 3, but includes all compensation considered wages under section 268.035, subdivision 29, and any other compensation considered earned income under state and federal law for income tax purposes.

Sec. 28. **[268.0865] CONTINUED REQUEST FOR UNEMPLOYMENT BENEFITS.**

Subdivision 1. **Continued request for unemployment benefits defined.** A continued request for unemployment benefits is a certification by an applicant, done on a weekly basis, that the applicant is unemployed and meets the ongoing eligibility requirements for unemployment benefits under section 268.085. A continued request must include information on possible issues of ineligibility in accordance with section 268.101, subdivision 1, paragraph (c).

Subd. 2. **Filing continued requests for unemployment benefits.** (a) The commissioner must designate to each applicant one of the following methods for filing a continued request:

(1) by electronic transmission under subdivision 3; or

(2) by mail under subdivision 4.

(b) The method designated by the commissioner is the only method allowed for filing a continued request by that applicant. An applicant may ask that the other allowed method be designated and the commissioner must consider inconvenience to the applicant as well as administrative capacity in determining whether to allow an applicant to change the designated method for filing a continued request for unemployment benefits.

Subd. 3. **Continued request for unemployment benefits by electronic transmission.** (a) A continued request for unemployment benefits by electronic transmission must be filed to that electronic mail address, telephone number, or Internet address prescribed by the commissioner for that applicant. In order to constitute a continued request, all information asked for, including information authenticating that the applicant is sending the transmission, must be provided in the format required. If all of the information asked for is not provided, the communication does not constitute a continued request for unemployment benefits.

(b) The electronic transmission communication must be filed on the date and during the time of day designated for the applicant for filing a continued request by electronic transmission.

(c) If the electronic transmission continued request is not filed on the date and during the time of day designated, a continued request by electronic transmission must be accepted if the applicant files the continued request by electronic transmission within two calendar weeks following the week in which the date designated occurred. If the continued request by electronic transmission is not filed within two calendar weeks following the week in which the date designated occurred, the electronic continued request will not be accepted and the applicant is ineligible for unemployment benefits for the period covered by the continued request, unless the applicant shows good cause for failing to file the continued request by electronic transmission within the time period required.

Subd. 4. **Continued request for unemployment benefits by mail.** (a) A continued request for unemployment benefits by mail must be on a form prescribed by the commissioner. The form, in order to constitute a continued request, must be totally completed and signed by the applicant. The form must be filed on the date required for the applicant for filing a continued request by mail, in an envelope with postage prepaid, and sent to the address designated.

(b) If the mail continued request for unemployment benefits is not filed on the date designated, a continued request must be accepted if the form is filed by mail within two calendar weeks following the week in which the date designated occurred. If the form is not filed within two calendar weeks following the week in which the date designated occurred, the form will not be accepted and the applicant is ineligible for unemployment benefits for the period covered by the continued request for unemployment benefits, unless the applicant shows good cause for failing to file the form by mail within the time period required.

(c) If the applicant has been designated to file a continued request for unemployment benefits by mail, an applicant may submit the form by facsimile transmission on the day otherwise required for mailing, or within two calendar weeks following the week in which the date designated occurred. A form submitted by facsimile transmission must be sent only to the telephone number assigned for that purpose.

(d) An applicant who has been designated to file a continued request by mail may personally deliver a continued request form only to the location to which the form was otherwise designated to be mailed.

Subd. 5. **Good cause defined.** (a) "Good cause" for purposes of this section is a compelling substantial reason that would have prevented a reasonable person acting with due diligence from filing a continued request for unemployment benefits within the time periods required.

(b) "Good cause" does not include forgetfulness, loss of the continued request form if filing by mail, having returned to work, having an appeal pending, or inability to file a continued request for unemployment benefits by the method designated if the applicant was aware of the inability and did not make diligent effort to have the method of filing a continued request changed by the commissioner. "Good cause" does not include having previously made an attempt to file a continued request for unemployment benefits but where the communication was not considered a continued request because the applicant failed to submit all required information.

Sec. 29. Minnesota Statutes 2008, section 268.095, subdivision 10, is amended to read:

**Subd. 10. Ineligibility duration.** (a) Ineligibility from the payment of all unemployment benefits under subdivisions 1 and 4 is for the duration of the applicant's unemployment and until the end of the calendar week that the applicant had total earnings in subsequent covered employment of eight times the applicant's weekly unemployment benefit amount.

(b) Ineligibility imposed under subdivisions 1 and 4 begins on the Sunday of the week that the applicant became separated from employment.

(c) In addition to paragraph (a), if the applicant was discharged from employment because of aggravated employment misconduct, wage credits from that employment are canceled and cannot be used for purposes of a benefit account under section 268.07, subdivision 2.

Sec. 30. Minnesota Statutes 2008, section 268.095, subdivision 11, is amended to read:

**Subd. 11. Application.** (a) This section and section 268.085, subdivision 13c, ~~and this section~~ apply to all covered employment, full time or part time, temporary or of limited duration, permanent or of indefinite duration, that occurred in Minnesota during the base period, the period between the end of the base period and the effective date of the benefit account, or the benefit year, ~~except as provided for in subdivision 1, clause (5).~~

(b) Paragraph (a) also applies to employment covered under an unemployment insurance program of any other state or established by an act of Congress.

Sec. 31. Minnesota Statutes 2008, section 268.101, subdivision 1, is amended to read:

**Subdivision 1. Notification.** (a) In an application for unemployment benefits, each applicant must report the name and the reason for no longer working for the applicant's most recent employer, as well as the names of all employers and the reasons for no longer working for all employers during the six calendar months before the date of the application. If the reason reported for no longer working for any of those employers is other than a layoff because of lack of work, that raises an issue of ineligibility that the department must determine. An applicant must report any offers of employment refused during the eight calendar weeks before the date of the application for unemployment benefits and the name of the employer that made the offer. An applicant's failure to report the name of an employer, or giving an incorrect reason for no longer working for an employer, or failing to disclose an offer of employment that was refused, is a violation of section 268.182, subdivision 2.

In an application, the applicant must also provide all information necessary to determine the applicant's eligibility for unemployment benefits under this chapter. If the applicant fails or refuses to provide information necessary to determine the applicant's eligibility for unemployment benefits, the applicant is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

(b) Upon establishment of a benefit account under section 268.07, subdivision 2, the commissioner shall notify, by mail or electronic transmission, all employers the applicant was required to report on the application and all base period employers and determined successors to those employers under section 268.051, subdivision 4, in order to provide the employer an opportunity to raise, in a manner and format prescribed by the commissioner, any issue of ineligibility. An employer must be informed of the effect that failure to raise an issue of ineligibility as a result of a quit or discharge of the applicant, ~~within ten calendar days after sending of the notice,~~ as provided for under subdivision 2, paragraph (b), may have on the employer under section 268.047.

(c) Each applicant must report any employment, and loss of employment, and offers of employment refused, during those weeks the applicant filed continued requests for unemployment benefits under section ~~268.086~~ 268.0865. Each applicant who stops filing continued requests during the benefit year and later begins filing continued requests during that same benefit year must report the name of any employer the applicant worked for during the period between the filing of continued requests and the reason the applicant stopped working for the employer. The applicant must report any offers of employment refused during the period between the filing of continued requests for unemployment benefits. Those employers from which the applicant has reported a loss of employment under this paragraph must be notified by mail or electronic transmission and provided an opportunity to raise, in a manner prescribed by the commissioner, any issue of ineligibility. An employer must be informed of the effect that failure to raise an issue of ineligibility as a result of a quit or a discharge of the applicant may have on the employer under section 268.047.

(d) The purpose for requiring the applicant to report the name of employers and the reason for no longer working for those employers, or offers of employment refused, under paragraphs (a) and (c) is for the commissioner to obtain information from an applicant raising all issues that may result in the applicant being ineligible for unemployment benefits under section 268.095, because of a quit or discharge, or the applicant being ineligible for unemployment benefits under section 268.085, subdivision 13c. If the reason given by the applicant for no longer working for an employer is other than a layoff because of lack of work, that raises an issue of ineligibility and the applicant is required, as part of the determination process under subdivision 2, paragraph (a), to state all the facts about the cause for no longer working for the employer, if known. If the applicant fails or refuses to provide any required information, the applicant is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

Sec. 32. Minnesota Statutes 2008, section 268.101, subdivision 2, is amended to read:

Subd. 2. **Determination.** (a) The commissioner ~~shall~~ must determine any issue of ineligibility raised by information required from an applicant under subdivision 1, paragraph (a) or (c), and send to the applicant and any involved employer, by mail or electronic transmission, a document titled a determination of eligibility or a determination of ineligibility, as is appropriate. The determination on an issue of ineligibility as a result of a quit or a discharge of the applicant must state the effect on the employer under section 268.047. A determination must be made in accordance with this

paragraph even if a notified employer has not raised the issue of ineligibility.

(b) The commissioner ~~shall~~ must determine any issue of ineligibility raised by an employer and send to the applicant and that employer, by mail or electronic transmission, a document titled a determination of eligibility or a determination of ineligibility as is appropriate. The determination on an issue of ineligibility as a result of a quit or discharge of the applicant must state the effect on the employer under section 268.047.

If a base period employer:

(1) was not the applicant's most recent employer before the application for unemployment benefits;

(2) did not employ the applicant during the six calendar months before the application for unemployment benefits; and

(3) did not raise an issue of ineligibility as a result of a quit or discharge of the applicant within ten calendar days of notification under subdivision 1, paragraph (b);

then any exception under section 268.047, subdivisions 2 and 3, begins the Sunday two weeks following the week that the issue of ineligibility as a result of a quit or discharge of the applicant was raised by the employer.

A communication from an employer must specifically set out why the applicant should be determined ineligible for unemployment benefits for that communication to be considered to have raised an issue of ineligibility for purposes of this section. A statement of "protest" or a similar term without more information does not constitute raising an issue of ineligibility for purposes of this section.

(c) Subject to section 268.031, an issue of ineligibility is determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source, ~~without regard to any burden of proof.~~

(d) Regardless of the requirements of this subdivision, the commissioner is not required to send to an applicant a copy of the determination where the applicant has satisfied a period of ineligibility because of a quit or a discharge under section 268.095, subdivision 10.

(e) The commissioner may issue a determination on an issue of ineligibility at any time within 24 months from the establishment of a benefit account based upon information from any source, even if the issue of ineligibility was not raised by the applicant or an employer. This paragraph does not prevent the imposition of a penalty on an applicant under section 268.18, subdivision 2, or 268.182.

(f) A determination of eligibility or determination of ineligibility is final unless an appeal is filed by the applicant or notified employer within 20 calendar days after sending. The determination must contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

(g) An issue of ineligibility required to be determined under this section includes any question regarding the denial or allowing of unemployment benefits under this chapter except for issues under section 268.07. An issue of ineligibility for purposes of this section includes any question of effect on an employer under section 268.047.

(h) Except for issues of ineligibility as a result of a quit or discharge of the applicant, the employer will be (1) sent a copy of the determination of eligibility or a determination of ineligibility, or (2) considered an involved employer for purposes of an appeal under section 268.105, only if the employer raised the issue of ineligibility.

Sec. 33. Minnesota Statutes 2008, section 268.103, subdivision 1, is amended to read:

Subdivision 1. **In commissioner's discretion.** (a) ~~The commissioner shall have the discretion to~~ may allow an appeal to be filed by electronic transmission. If the commissioner allows an appeal to be filed by electronic transmission, that must be clearly set out on the determination or decision subject to appeal.

(b) ~~The commissioner may restrict the manner, and format, and conditions under which an appeal by electronic transmission may be filed. Any Restrictions as to days, hours, a specific telephone number, or electronic address, or other conditions,~~ must be clearly set out on the determination or decision subject to appeal.

(c) All information requested by the commissioner when an appeal is filed by electronic transmission must be supplied or the communication does not constitute an appeal.

(d) Subject to subdivision 2, this section applies to requests for reconsideration under section 268.105, subdivision 2.

Sec. 34. Minnesota Statutes 2008, section 268.105, subdivision 1, is amended to read:

Subdivision 1. **Evidentiary hearing by unemployment law judge.** (a) Upon a timely appeal having been filed, the department must send, by mail or electronic transmission, a notice of appeal to all involved parties that an appeal has been filed, and that a de novo due process evidentiary hearing will be scheduled, ~~and that the parties have certain.~~ The notice must set out the parties' rights and responsibilities regarding the hearing. The notice must explain that the facts will be determined by the unemployment law judge based upon a preponderance of the evidence. The notice must explain in clear and simple language the meaning of the term "preponderance of the evidence." The department must set a time and place for a de novo due process evidentiary hearing and send notice to any involved applicant and any involved employer, by mail or electronic transmission, not less than ten calendar days before the date of the hearing.

(b) ~~The evidentiary hearing is conducted by an unemployment law judge without regard to any burden of proof as an evidence gathering inquiry and not an adversarial proceeding. At the beginning of the hearing the unemployment law judge must fully explain how the hearing will be conducted, that the applicant has the right to request that the hearing be rescheduled so that documents or witnesses can be subpoenaed, that the facts will be determined based on a preponderance of the evidence, and, in clear and simple language, the meaning of the term "preponderance of the evidence."~~ The unemployment law judge must ensure that all relevant facts are clearly and fully developed. The department may adopt rules on evidentiary hearings. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. The department has discretion regarding the method by which the evidentiary hearing is conducted. A report of any employee of the department, except a determination, made in the regular course of the employee's duties, is competent evidence of the facts contained in it. An affidavit or written statement based on personal knowledge and signed under penalty of perjury is competent evidence of the facts contained in it; however, the veracity of statements contained

within the document or the credibility of the witness making the statement may be disputed with other documents or testimony and production of such documents or testimony may be compelled by subpoena.

(c) After the conclusion of the hearing, upon the evidence obtained, the unemployment law judge must make findings of fact and decision and send those, by mail or electronic transmission, to all involved parties. When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony. The unemployment law judge's decision is final unless a request for reconsideration is filed under subdivision 2.

(d) Regardless of paragraph (c), if the appealing party fails to participate in the evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal by summary order. By failing to participate, the appealing party is considered to have failed to exhaust available administrative remedies unless the appealing party files a request for reconsideration under subdivision 2 and establishes good cause for failing to participate in the evidentiary hearing under subdivision 2, paragraph (d). Submission of a written statement does not constitute participation. The applicant must participate personally and appearance solely by a representative does not constitute participation.

(e) Only employees of the department who are attorneys licensed to practice law in Minnesota may serve as the chief unemployment law judge, senior unemployment law judges who are supervisors, or unemployment law judges. The commissioner must designate a chief unemployment law judge. The chief unemployment law judge may transfer to another unemployment law judge any proceedings pending before an unemployment law judge.

Sec. 35. Minnesota Statutes 2008, section 268.105, subdivision 2, is amended to read:

**Subd. 2. Request for reconsideration.** (a) Any involved applicant, involved employer, or the commissioner may, within 20 calendar days of the sending of the unemployment law judge's decision under subdivision 1, file a request for reconsideration asking the unemployment law judge to reconsider that decision. Section 268.103 applies to a request for reconsideration. If a request for reconsideration is timely filed, the unemployment law judge must issue an order:

- (1) modifying the findings of fact and decision issued under subdivision 1;
- (2) setting aside the ~~findings of fact and~~ decision issued under subdivision 1 and directing that an additional evidentiary hearing be conducted under subdivision 1; or
- (3) affirming the findings of fact and decision issued under subdivision 1.

(b) Upon a timely request for reconsideration having been filed, the department must send a notice, by mail or electronic transmission, to all involved parties that a request for reconsideration has been filed. The notice must inform the involved parties:

- (1) of the opportunity to provide comment on the request for reconsideration, and the right under subdivision 5 to obtain a copy of any recorded testimony and exhibits offered or received into evidence at the evidentiary hearing;
- (2) that providing specific comments as to a perceived factual or legal error in the decision, or a perceived error in procedure during the evidentiary hearing, will assist the unemployment law judge

in deciding the request for reconsideration;

(3) of the right to obtain any comments and submissions provided by the other involved party regarding the request for reconsideration; and

(4) of the provisions of paragraph (c) regarding additional evidence.

This paragraph does not apply if paragraph (d) is applicable.

(c) In deciding a request for reconsideration, the unemployment law judge must not, except for purposes of determining whether to order an additional evidentiary hearing, consider any evidence that was not submitted at the evidentiary hearing conducted under subdivision 1.

The unemployment law judge must order an additional evidentiary hearing if an involved party shows that evidence which was not submitted at the evidentiary hearing: (1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or (2) would show that the evidence that was submitted at the evidentiary hearing was likely false and that the likely false evidence had an effect on the outcome of the decision.

(d) If the involved applicant or involved employer who filed the request for reconsideration failed to participate in the evidentiary hearing conducted under subdivision 1, an order setting aside the ~~findings of fact and~~ decision and directing that an additional evidentiary hearing be conducted must be issued if the party who failed to participate had good cause for failing to do so. In the notice that a request for reconsideration has been filed, the party who failed to participate must be informed of the requirement, and provided the opportunity, to show good cause for failing to participate. If the unemployment law judge determines that good cause for failure to participate has not been shown, the unemployment law judge must state that in the order issued under paragraph (a).

Submission of a written statement at the evidentiary hearing under subdivision 1 does not constitute participation for purposes of this paragraph.

All involved parties must be informed of this paragraph with the notice of appeal and notice of hearing provided for in subdivision 1.

"Good cause" for purposes of this paragraph is a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing.

(e) A request for reconsideration must be decided by the unemployment law judge who issued the ~~findings of fact and~~ decision under subdivision 1 unless that unemployment law judge: (1) is no longer employed by the department; (2) is on an extended or indefinite leave; (3) has been disqualified from the proceedings on the judge's own motion; or (4) has been removed from the proceedings ~~as provided for under subdivision 1 or applicable rule~~ by the chief unemployment law judge.

(f) The unemployment law judge must send to any involved applicant or involved employer, by mail or electronic transmission, the order issued under this subdivision. An order modifying the previously issued findings of fact and decision or an order affirming the previously issued findings of fact and decision is the final department decision on the matter and is final and binding on the involved applicant and involved employer unless judicial review is sought under subdivision 7.

Sec. 36. Minnesota Statutes 2008, section 268.105, subdivision 3a, is amended to read:

Subd. 3a. **Decisions.** (a) If an unemployment law judge's decision or order allows unemployment benefits to an applicant, the unemployment benefits must be paid regardless of any request for reconsideration or any appeal to the Minnesota Court of Appeals having been filed.

(b) If an unemployment law judge's decision or order modifies or reverses a determination, or prior decision of the unemployment law judge, allowing unemployment benefits to an applicant, any benefits paid in accordance with the determination, or prior decision of the unemployment law judge, is considered an overpayment of those unemployment benefits. A decision or order issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

(c) If an unemployment law judge's order under subdivision 2 allows unemployment benefits to an applicant under section 268.095 because of a quit or discharge and the unemployment law judge's decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota, the applicant cannot be held ineligible for any of the unemployment benefits paid the applicant and it is not considered an overpayment of those unemployment benefits under section 268.18, subdivision 1. The effect of the court's reversal is the application of section 268.047, subdivision 3, in computing the future tax rate of the employer.

(d) If an unemployment law judge, under subdivision 2, orders the taking of additional evidence, the unemployment law judge's prior decision must continue to be enforced until new findings of fact and decision are made by the unemployment law judge.

Sec. 37. Minnesota Statutes 2008, section 268.105, subdivision 4, is amended to read:

Subd. 4. **Oaths; subpoenas.** An unemployment law judge has authority to administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of documents and other personal property considered necessary as evidence in connection with the subject matter of an evidentiary hearing.

The unemployment law judge must give full consideration to a request for a subpoena and must not unreasonably deny a request for a subpoena. If a subpoena request is initially denied, the unemployment law judge must, on the unemployment law judge's own motion, reconsider that request during the evidentiary hearing and rule on whether the request was properly denied. If the request was not properly denied, the evidentiary hearing must be continued for issuance of the subpoena. The subpoenas are enforceable through the district court in Ramsey County. Witnesses subpoenaed, other than an involved applicant or involved employer or officers and employees of an involved employer, must be paid by the department the same witness fees as in a civil action in district court.

Sec. 38. Minnesota Statutes 2008, section 268.105, subdivision 5, is amended to read:

Subd. 5. **Use of evidence; data privacy.** (a) All testimony at any evidentiary hearing conducted under subdivision 1 must be recorded. A copy of any recorded testimony and exhibits offered or received into evidence at the hearing must, upon request, be furnished to a party at no cost during the time period for filing a request for reconsideration or while a request for reconsideration is pending.

(b) Regardless of any provision of law to the contrary, if recorded testimony and exhibits received into evidence at the evidentiary hearing are not requested during the time period for filing a request

for reconsideration, ~~or~~ while a request for reconsideration is pending, during the time for filing any appeal under subdivision 7, or during the pendency thereof, that testimony and other evidence may later be made available only under a district court order. A subpoena is not considered a district court order.

(c) Testimony obtained under subdivision 1, may not be used or considered for any purpose, including impeachment, in any civil, administrative, or contractual proceeding, except by a local, state, or federal human rights agency with enforcement powers, unless the proceeding is initiated by the department.

Sec. 39. Minnesota Statutes 2008, section 268.115, subdivision 5, is amended to read:

Subd. 5. **Maximum amount of extended unemployment benefits.** The maximum amount of extended unemployment benefits available to an applicant is 50 percent of the maximum amount of regular unemployment benefits available in the benefit year, ~~rounded down to the next lower whole dollar.~~ If the total rate of unemployment computed under subdivision 1, clause (2)(ii), equaled or exceeded eight percent, the maximum amount of extended unemployment benefits available is 80 percent of the maximum amount of regular unemployment benefits available in the benefit year.

Sec. 40. Minnesota Statutes 2008, section 268.125, subdivision 5, is amended to read:

Subd. 5. **Maximum amount of unemployment benefits.** The maximum amount of additional unemployment benefits available in the applicant's benefit year is one-half of the applicant's maximum amount of regular unemployment benefits available under section 268.07, subdivision 2, ~~rounded down to the next lower whole dollar.~~ Extended unemployment benefits paid and unemployment benefits paid under any federal law other than regular unemployment benefits must be deducted from the maximum amount of additional unemployment benefits available.

Sec. 41. Minnesota Statutes 2008, section 268.135, subdivision 4, is amended to read:

Subd. 4. **Weekly benefit amount.** (a) An applicant who is eligible for shared work benefits is paid an amount equal to the regular weekly unemployment benefit amount multiplied by the nearest full percentage of reduction of the applicant's regular weekly hours of work as set in the plan. ~~The benefit payment, if not a whole dollar must be rounded down to the next lower whole dollar.~~

(b) The deductible earnings provisions of section 268.085, subdivision 5, must not apply to earnings from the shared work employer of an applicant eligible for shared work benefits unless the resulting amount would be less than the regular weekly unemployment benefit amount the applicant would otherwise be eligible for without regard to shared work benefits.

(c) An applicant is not eligible for shared work benefits for any week that employment is performed for the shared work employer in excess of the reduced hours set forth in the plan.

Sec. 42. Minnesota Statutes 2008, section 268.145, subdivision 1, is amended to read:

Subdivision 1. **Notification.** (a) Upon filing an application for unemployment benefits, the applicant must be informed that:

- (1) unemployment benefits are subject to federal and state income tax;
- (2) there are requirements for filing estimated tax payments;

- (3) the applicant may elect to have federal income tax withheld from unemployment benefits;
- (4) if the applicant elects to have federal income tax withheld, the applicant may, in addition, elect to have Minnesota state income tax withheld; and
- (5) at any time during the benefit year the applicant may change a prior election.

(b) If an applicant elects to have federal income tax withheld, the commissioner ~~shall~~ must deduct ten percent for federal income tax, ~~rounded down to the next lower whole dollar~~. If an applicant also elects to have Minnesota state income tax withheld, the commissioner ~~shall~~ must make an additional five percent deduction for state income tax, ~~rounded down to the next lower whole dollar~~. Any amounts deducted or offset under sections 268.155, 268.18, and 268.184 have priority over any amounts deducted under this section. Federal income tax withholding has priority over state income tax withholding.

(c) An election to have income tax withheld may not be retroactive and only applies to unemployment benefits paid after the election.

Sec. 43. Minnesota Statutes 2008, section 268.18, subdivision 1, is amended to read:

Subdivision 1. **Nonfraud overpayment.** (a) Any applicant who (1) because of a determination or amended determination issued under section 268.07 or 268.101, or any other section of this chapter, or (2) because of an appeal decision or order under section 268.105, has received any unemployment benefits that the applicant was held not entitled to, must promptly repay the unemployment benefits to the trust fund.

(b) If the applicant fails to repay the unemployment benefits overpaid, the commissioner may offset from any future unemployment benefits otherwise payable the amount of the overpayment. Except when the overpayment resulted because the applicant failed to report deductible earnings or deductible or benefit delaying payments, no single offset may exceed 50 percent of the amount of the payment from which the offset is made. The overpayment may also be collected by the ~~same methods as delinquent payments from an employer~~ allowed under state and federal law.

(c) If an applicant has been overpaid unemployment benefits under the law of another state, because of a reason other than fraud, and that state certifies that the applicant is liable under its law to repay the unemployment benefits and requests the commissioner to recover the overpayment, the commissioner may offset from future unemployment benefits otherwise payable the amount of overpayment, except that no single offset may exceed 50 percent of the amount of the payment from which the offset is made.

~~(d) If under paragraph (b) or (c) the reduced unemployment benefits as a result of a 50 percent offset is not a whole dollar amount, it is rounded down to the next lower whole dollar.~~

Sec. 44. Minnesota Statutes 2008, section 268.18, subdivision 2, is amended to read:

Subd. 2. **Overpayment because of fraud.** (a) Any applicant who receives unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose any material fact, or who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, has committed fraud. After the discovery of facts indicating fraud, the commissioner ~~shall~~ must make a determination that the applicant obtained unemployment benefits by fraud and that the applicant must promptly repay the unemployment benefits to the trust

fund. In addition, the commissioner ~~shall~~ must assess a penalty equal to 40 percent of the amount fraudulently obtained. This penalty is in addition to penalties under section 268.182.

(b) Unless the applicant files an appeal within 20 calendar days after the sending of the determination of overpayment by fraud to the applicant by mail or electronic transmission, the determination is final. Proceedings on the appeal are conducted in accordance with section 268.105.

(c) If the applicant fails to repay the unemployment benefits, penalty, and interest assessed, the total due may be collected by the same methods as delinquent payments from an employer allowed under state and federal law. A determination of overpayment by fraud must state the methods of collection the commissioner may use to recover the overpayment. Money received in repayment of fraudulently obtained unemployment benefits, penalties, and interest is first applied to the unemployment benefits overpaid, then to the penalty amount due, then to any interest due. 62.5 percent of the payments made toward the penalty are credited to the contingent account and 37.5 percent credited to the administration account ~~for deterring, detecting, or collecting overpayments~~.

(d) If an applicant has been overpaid unemployment benefits under the law of another state because of fraud and that state certifies that the applicant is liable to repay the unemployment benefits and requests the commissioner to recover the overpayment, the commissioner may offset from future unemployment benefits otherwise payable the amount of overpayment.

(e) Unemployment benefits paid for weeks more than four years before the date of a determination of overpayment by fraud issued under this subdivision are not considered overpaid unemployment benefits.

Sec. 45. Minnesota Statutes 2008, section 268.196, subdivision 1, is amended to read:

Subdivision 1. **Administration account.** (a) There is created in the state treasury a special account to be known as the administration account. All money that is deposited ~~or paid~~ into this account is continuously available to the commissioner for expenditure to administer the Minnesota unemployment insurance program, and does not lapse at any time. The administration account consists of:

(1) all money received from the federal government to administer the Minnesota unemployment insurance program, any federal unemployment insurance program, or assistance provided to any other state to administer that state's unemployment insurance program;

(2) five percent of any money recovered on overpaid unemployment benefits as provided for in section 268.194, subdivision 1, clause (7), which must be used for deterring, detecting, and collecting overpaid unemployment benefits;

(3) any money received as compensation for services or facilities supplied to the federal government or any other state;

(4) any money credited to this account under this chapter;

(5) any amounts received for losses sustained by this account or by reason of damage to equipment or supplies; and

~~(5)~~ (6) any proceeds from the sale or disposition of any equipment or supplies that may no longer be necessary for the proper administration of those sections.

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other special accounts in the state treasury. The commissioner of finance, as treasurer and custodian of this account, is liable for the faithful performance of duties in connection with this account.

(c) All money in this account must be spent for the purposes and in the amounts found necessary by the United States Secretary of Labor for the proper and efficient administration of the Minnesota unemployment insurance program.

Sec. 46. Minnesota Statutes 2008, section 268.196, subdivision 2, is amended to read:

Subd. 2. **State to replace money wrongfully used.** If any money received under United States Code, title 42, section 501 of the Social Security Act ~~or the Wagner-Peyser Act,~~ is found by the United States Secretary of Labor to have been spent for purposes other than, ~~or in amounts in excess of,~~ those necessary for the proper administration of the Minnesota unemployment insurance program, ~~the commissioner may replace the money from the contingent account. If the money is not replaced from the contingent account, it is the policy of this state that the money be replaced by money appropriated for that purpose from the general funds of this state. If not replaced from the contingent account, the commissioner shall must,~~ at the earliest opportunity, submit to the legislature a request for the appropriation of that amount.

Sec. 47. Minnesota Statutes 2008, section 268.199, is amended to read:

**268.199 CONTINGENT ACCOUNT.**

(a) There is created in the state treasury a special account, to be known as the contingent account, that does not lapse nor revert to any other fund or account. This account consists of ~~all money appropriated by the legislature,~~ all money collected under this chapter that is required to be placed in this account, and any interest earned on the account. All money in this ~~account~~ is ~~supplemental to all federal money available to the commissioner. Money in this account is appropriated to the commissioner and is available to the commissioner for administration of the Minnesota unemployment insurance program unless otherwise appropriated by session law.~~

(b) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. ~~On June 30 of each year, all amounts in excess of \$300,000 in this account must be paid over to the trust fund.~~

Sec. 48. Minnesota Statutes 2008, section 268.211, is amended to read:

**268.211 UNEMPLOYMENT INSURANCE BENEFITS TELEPHONE SYSTEM.**

The commissioner must ensure that ~~the~~ any automated telephone system used for unemployment insurance benefits provides an option for any caller to speak to an unemployment insurance specialist. An individual who calls any of the publicized telephone numbers seeking information about applying for unemployment benefits or on the status of a claim benefit account must have the option to speak on the telephone to a specialist who can provide direct assistance or can direct the caller to the ~~person~~ individual or office that is able to respond to the caller's needs.

Sec. 49. UNEMPLOYMENT LAW JUDGES.

It is in the public interest, as well as the interest of applicants and employees, that an unemployment law judge conducting contested unemployment insurance hearings should be an experienced attorney with a background in civil, criminal, or administrative proceedings. An unemployment law judge should have a level of skill equal to that of a workers' compensation judge. In order to recruit and retain individuals with the appropriate skills, the pay of an unemployment law judge should be commensurate with that of a workers' compensation judge, but should also take into account the less formal nature of an unemployment insurance hearing. Before October 1, 2009, the commissioner of finance is directed, in consultation with the deputy commissioner of employment and economic development and the chief unemployment law judge, to determine and implement the appropriate pay level, with no more than two pay steps, for unemployment law judges, giving consideration only to the pay level provided to workers' compensation judges, but taking into account the less formal nature of an unemployment insurance hearing.

Sec. 50. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, chapter 268, the revisor shall change "shall" to "must," except in Minnesota Statutes, sections 268.035 and 268.103.

Sec. 51. **REPEALER.**

Minnesota Statutes 2008, sections 268.085, subdivision 14; and 268.086, subdivisions 1, 2, 3, 5, 6, 7, 8, and 9, are repealed.

Sec. 52. **EFFECTIVE DATE.**

Sections 1 to 48 and 50 are effective August 2, 2009, and apply to all department determinations and unemployment law judge decisions issued on or after that date.

## ARTICLE 5

### LABOR STANDARDS AND WAGES; LICENSING AND FEES

Section 1. Minnesota Statutes 2008, section 16C.28, is amended by adding a subdivision to read:

Subd. 6. **Contract awards.** When prevailing wage laws apply, an agency shall not be liable for costs under section 177.43, subdivision 3, if it has included language in its contracts which requires vendors and contractors to comply with prevailing wage laws and the contract also contains the following elements:

- (1) a description of the prevailing wage laws and a citation to relevant statutes;
- (2) contact details for further information from the Department of Labor and Industry; and
- (3) a statement of contractor and subcontractor liability for failure to adhere to prevailing wage laws.

Sec. 2. Minnesota Statutes 2008, section 177.27, subdivision 4, is amended to read:

Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032, 181.101, 181.11, 181.12, 181.13, 181.14, 181.145, 181.15, 181.275, subdivision 2a, and 181.79, or with any rule promulgated under section 177.28. The commissioner shall issue an order requiring an employer to

comply with sections 177.41 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that were required by sections 177.41 to 177.435. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner.

Sec. 3. Minnesota Statutes 2008, section 177.30, is amended to read:

**177.30 KEEPING RECORDS; PENALTY.**

(a) Every employer subject to sections 177.21 to 177.44 must make and keep a record of:

- (1) the name, address, and occupation of each employee;
- (2) the rate of pay, and the amount paid each pay period to each employee;
- (3) the hours worked each day and each workweek by the employee;

(4) for each employer subject to sections 177.41 to 177.44, and while performing work on public works projects funded in whole or in part with state funds, the employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid each employee during the preceding weeks specifying for each employee: name; identifying number; prevailing wage master job classification of each employee working on the project for each hour; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs; and

(5) other information the commissioner finds necessary and appropriate to enforce sections 177.21 to ~~177.35~~ 177.435. The records must be kept for three years in or near the premises where an employee works except each employer subject to sections 177.41 to 177.44, and while performing work on public works projects funded in whole or in part with state funds, the records must be kept for three years after the contracting authority has made final payment on the public works project.

(b) The commissioner may fine an employer up to \$1,000 for each failure to maintain records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

Sec. 4. Minnesota Statutes 2008, section 177.31, is amended to read:

**177.31 POSTING OF LAW AND RULES; PENALTY.**

Every employer subject to sections 177.21 to ~~177.35~~ 177.44 must obtain and keep a summary of those sections, approved by the department, and copies of any applicable rules adopted under those sections, or a summary of the rules. The employer must post the summaries in a conspicuous and accessible place in or about the premises in which any person covered by sections 177.21 to ~~177.35~~ 177.44 is employed. The department shall furnish copies of the summaries and rules to employers without charge.

The commissioner may fine an employer up to \$200 for each failure to comply with this section. This penalty is in addition to any penalties provided by section 177.32, subdivision 1.

Sec. 5. Minnesota Statutes 2008, section 177.32, is amended to read:

**177.32 PENALTIES.**

Subdivision 1. **Misdemeanors.** An employer who does any of the following is guilty of a misdemeanor:

(1) hinders or delays the commissioner in the performance of duties required under sections 177.21 to ~~177.35~~ 177.435;

(2) refuses to admit the commissioner to the place of business or employment of the employer, as required by section 177.27, subdivision 1;

(3) repeatedly fails to make, keep, and preserve records as required by section 177.30;

(4) falsifies any record;

(5) refuses to make any record available, or to furnish a sworn statement of the record or any other information as required by section 177.27;

(6) repeatedly fails to post a summary of sections 177.21 to ~~177.35~~ 177.44 or a copy or summary of the applicable rules as required by section 177.31;

(7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21 to ~~177.35~~ 177.44;

(8) refuses to allow adequate time from work as required by section 177.253; or

(9) otherwise violates any provision of sections 177.21 to ~~177.35~~ 177.44.

Subd. 2. **Fine.** An employer shall be fined not less than \$700 nor more than \$3,000 if convicted of discharging or otherwise discriminating against any employee because:

(1) the employee has complained to the employer or to the department that wages have not been paid in accordance with sections 177.21 to ~~177.35~~ 177.435;

(2) the employee has instituted or will institute a proceeding under or related to sections 177.21 to ~~177.35~~ 177.435; or

(3) the employee has testified or will testify in any proceeding.

Sec. 6. Minnesota Statutes 2008, section 177.42, subdivision 6, is amended to read:

Subd. 6. **Prevailing wage rate.** "Prevailing wage rate" means the hourly basic rate of pay plus

the contribution for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefit paid to or for the largest number of workers engaged in the same class of labor within the area and for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of:

(1) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(2) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

"Prevailing wage rate" includes, for the purposes of section 177.44, rental rates for truck hire paid to those who own and operate the truck.

The prevailing wage rate may not be less than a reasonable and living wage.

Sec. 7. Minnesota Statutes 2008, section 177.42, is amended by adding a subdivision to read:

Subd. 7. **Employer.** "Employer" means an individual, partnership, association, corporation, business trust, or other business entity that hires a laborer, worker, or mechanic.

Sec. 8. Minnesota Statutes 2008, section 177.43, subdivision 3, is amended to read:

Subd. 3. **Contract requirements.** The contract must specifically state the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay. The contracting authority shall incorporate into its proposals and all contracts the applicable wage determinations for the contract along with contract language provided by the commissioner of labor and industry to notify the contractor and all subcontractors of the applicability of sections 177.41 to 177.44. Failure to incorporate the determination or provided contract language into the contracts shall make the contracting authority liable for making whole the contractor or subcontractor for any increases in the wages paid, including employment taxes and reasonable administrative costs based on the appropriate prevailing wage due to the laborers or mechanics working on the project. The contract must also provide that the contracting agency shall demand, and the contractor and subcontractor shall furnish to the contracting agency, copies of any or all payrolls not more than 14 days after the end of each pay period. The payrolls must contain all the data required by section 177.30. The contracting authority may examine all records relating to wages paid laborers or mechanics on work to which sections 177.41 to 177.44 apply.

Sec. 9. **[181.986] REQUIRED EQUIPMENT AND APPAREL.**

(a) Notwithstanding any other law or rule to the contrary, a public employer is prohibited from knowingly purchasing or acquiring, furnishing, or requiring an employee to purchase or acquire for wear or use while on duty, any of the following items if the item is not manufactured in the United States of America:

(1) any uniform or other item of wearing apparel over which an employee has no discretion in selecting except for selecting the proper size; or

(2) safety equipment or protective accessories.

(b) Preference must be given to purchases from manufacturers who pay an average annual income, including wages and benefits, equal to at least 150 percent of the federal poverty guideline adjusted for a family size of four. For purposes of this section, "public employer" means a county, home rule charter or statutory city, town, school district, metropolitan or regional agency, public corporation, political subdivision, special district as defined in section 6.465, subdivision 3, municipal fire department, independent nonprofit firefighting corporation, the University of Minnesota, the Minnesota State Colleges and Universities, and the state of Minnesota and its agencies.

(c) Notwithstanding paragraph (a), a public employer may purchase or acquire, furnish, or require an employee to purchase or acquire items listed in paragraph (a) manufactured outside of the United States if similar items are not manufactured or available for purchase in the United States.

**EFFECTIVE DATE.** This section is effective January 1, 2010, or upon expiration of valid contracts for such equipment and apparel entered into by public employers prior to June 1, 2009, whichever is later.

Sec. 10. Minnesota Statutes 2008, section 270.97, is amended to read:

**270.97 DEPOSIT OF REVENUES.**

The commissioner shall deposit all revenues derived from the tax, interest, and penalties received from the county in the contaminated site cleanup and development account in the general fund and is annually appropriated to the commissioner of the Department of Employment and Economic Development, for the purposes of section 116J.551.

**Sec. 11. [326B.153] BUILDING PERMIT FEES.**

Subdivision 1. **Building permits.** (a) Fees for building permits submitted as required in section 326B.106 include:

(1) the fee as set forth in the fee schedule in paragraph (b) or as adopted by a municipality; and

(2) the surcharge required by section 326B.148.

(b) The total valuation and fee schedule is:

(1) \$1 to \$500, \$29.50;

(2) \$501 to \$2,000, \$28 for the first \$500 plus \$3.70 for each additional \$100 or fraction thereof, to and including \$2,000;

(3) \$2,001 to \$25,000, \$83.50 for the first \$2,000 plus \$16.55 for each additional \$1,000 or fraction thereof, to and including \$25,000;

(4) \$25,001 to \$50,000, \$464.15 for the first \$25,000 plus \$12 for each additional \$1,000 or fraction thereof, to and including \$50,000;

(5) \$50,001 to \$100,000, \$764.15 for the first \$50,000 plus \$8.45 for each additional \$1,000 or fraction thereof, to and including \$100,000;

(6) \$100,001 to \$500,000, \$1,186.65 for the first \$100,000 plus \$6.75 for each additional \$1,000 or fraction thereof, to and including \$500,000;

(7) \$500,001 to \$1,000,000, \$3,886.65 for the first \$500,000 plus \$5.50 for each additional \$1,000 or fraction thereof, to and including \$1,000,000; and

(8) \$1,000,001 and up, \$6,636.65 for the first \$1,000,000 plus \$4.50 for each additional \$1,000 or fraction thereof.

(c) Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), \$63.25 per hour;

(2) reinspection fees, \$63.25 per hour;

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), \$63.25 per hour; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), \$63.25 per hour.

(d) If the actual hourly cost to the jurisdiction under paragraph (c) is greater than \$63.25, then the greater rate shall be paid. Hourly cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Subd. 2. **Plan review.** Fees for the review of building plans, specifications, and related documents submitted as required by section 326B.106 must be paid based on 65 percent of the building permit fee required in subdivision 1.

Subd. 3. **Surcharge.** Surcharge fees are required for permits issued on all buildings including public buildings and state licensed facilities as required by section 326B.148.

Subd. 4. **Distribution.** (a) This subdivision establishes the fee distribution between the state and municipalities contracting for plan review and inspection of public buildings and state licensed facilities.

(b) If plan review and inspection services are provided by the state building official, all fees for those services must be remitted to the state.

(c) If plan review services are provided by the state building official and inspection services are provided by a contracting municipality:

(1) the state shall charge 75 percent of the plan review fee required by the state's fee schedule in subdivision 2; and

(2) the municipality shall charge 25 percent of the plan review fee required by the municipality's adopted fee schedule, for orientation to the plans, in addition to the permit and other customary fees charged by the municipality.

(d) If plan review and inspection services are provided by the contracting municipality, all fees

for those services must be remitted to the municipality in accordance with their adopted fee schedule.

Sec. 12. Minnesota Statutes 2008, section 326B.33, subdivision 13, is amended to read:

Subd. 13. **Registration of unlicensed individuals.** Unlicensed individuals performing electrical work for a contractor or employer shall register with the department in the manner prescribed by the commissioner. Experience credit for electrical work performed in Minnesota after January 1, ~~2008~~ 2009, by an applicant for a license identified in this section shall not be granted where the applicant has not registered with or is not licensed by the department.

Sec. 13. Minnesota Statutes 2008, section 326B.33, subdivision 19, is amended to read:

Subd. 19. **License, registration, and renewal fees; expiration.** (a) Unless revoked or suspended under this chapter, all licenses issued or renewed under this section expire on the date specified in this subdivision. Master licenses expire March 1 of each odd-numbered year after issuance or renewal. Electrical contractor licenses expire March 1 of each even-numbered year after issuance or renewal. Technology system contractor licenses expire August 1 of each even-numbered year after issuance or renewal. All other personal licenses expire two years from the date of original issuance and every two years thereafter. Registrations of unlicensed individuals expire one year from the date of original issuance and every year thereafter.

(b) Fees for application and examination, and for the original issuance and each subsequent renewal, are:

(1) For each personal license application and examination: \$35;

(2) For original issuance and each subsequent renewal of:

Class A Master or master special electrician, including master elevator constructor: \$40 per year;

Class B Master: \$25 per year;

Power Limited Technician: \$15 per year;

Class A Journeyman, Class B Journeyman, Installer, Elevator Constructor, Lineman, or Maintenance Electrician other than master special electrician: \$15 per year;

Contractor: \$100 per year;

Unlicensed individual registration: \$15 per year.

(c) If any new license is issued in accordance with this subdivision for less than two years, the fee for the license shall be prorated on an annual basis.

(d) A license fee may not be refunded after a license is issued or renewed. However, if the fee paid for a license was not prorated in accordance with this subdivision, the amount of the overpayment shall be refunded.

(e) Any contractor who seeks reissuance of a license after it has been revoked or suspended under this chapter shall submit a reissuance fee of \$100 before the license is reinstated.

~~(f) The fee for the issuance of each duplicate license is \$15.~~

~~(g) An individual or contractor who fails to renew a license before 30 days after the expiration or~~

registration of the license must submit a late fee equal to one year's license fee in addition to the full renewal fee. Fees for renewed licenses or registrations are not prorated. An individual or contractor that fails to renew a license or registration by the expiration date is unlicensed until the license or registration is renewed.

Sec. 14. Minnesota Statutes 2008, section 326B.46, subdivision 4, is amended to read:

Subd. 4. **Fee.** (a) Each person giving bond to the state under subdivision 2 shall pay the department ~~an annual~~ a bond registration fee of \$40 for one year or \$80 for two years.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.475 or 326B.49, subdivision 1.

Sec. 15. Minnesota Statutes 2008, section 326B.475, subdivision 4, is amended to read:

Subd. 4. **Renewal; use period for license.** (a) A restricted master plumber and restricted journeyman plumber license must be renewed ~~annually~~ for as long as that licensee engages in the plumbing trade. Failure to renew a restricted master plumber and restricted journeyman plumber license within 12 months after the expiration date will result in permanent forfeiture of the restricted master plumber and restricted journeyman plumber license.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of restricted master plumber and restricted journeyman plumber licenses from one year to two years. By June 30, 2011, all restricted master plumber and restricted journeyman plumber licenses shall be two-year licenses.

Sec. 16. Minnesota Statutes 2008, section 326B.475, subdivision 7, is amended to read:

Subd. 7. **Fee.** The ~~annual~~ renewal fee for the restricted master plumber and restricted journeyman plumber licenses is the same fee as for a master or journeyman plumber license, respectively.

Sec. 17. Minnesota Statutes 2008, section 326B.49, subdivision 1, is amended to read:

Subdivision 1. **Application.** (a) Applications for plumber's license shall be made to the commissioner, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the commissioner only after passing a satisfactory examination developed and administered by the commissioner, based upon rules adopted by the Plumbing Board, showing fitness. Examination fees for both journeyman and master plumbers shall be \$50 for each examination. Upon being notified of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. The license fee for each initial ~~and renewal~~ master plumber's license shall be ~~\$120~~ \$240. The license fee for each initial ~~and renewal~~ journeyman plumber's license shall be ~~\$55~~ \$110. ~~The commissioner may by rule prescribe for the expiration and renewal of licenses.~~

(b) All initial master and journeyman plumber's licenses shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The license fee for each renewal master plumber's license shall be \$120 for one year or \$240 for two years. The license fee for each renewal journeyman plumber's license shall be \$55 for one year or \$110 for two years. The commissioner shall in a manner determined by the

commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master and journeyman plumber's licenses from one year to two years. By June 30, 2011, all renewed master and journeyman plumber's licenses shall be two-year licenses.

(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A journeyman or master plumber who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

Sec. 18. Minnesota Statutes 2008, section 326B.56, subdivision 4, is amended to read:

Subd. 4. **Fee.** (a) The commissioner shall collect a \$40 bond registration fee for one year or \$80 for two years from each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.55.

Sec. 19. Minnesota Statutes 2008, section 326B.58, is amended to read:

#### **326B.58 FEES.**

(a) Examination fees for both water conditioning contractors and water conditioning installers shall be \$50 for each examination. Each initial water conditioning contractor and installer license shall be effective for more than one calendar year and shall expire on December 31 of the year ~~for which it was issued~~ after the year in which the application is made. The license fee for each initial water conditioning contractor's license shall be ~~\$70~~ \$140, except that the license fee shall be ~~\$35~~ \$105 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning contractor's license shall be \$70 for one year or \$140 for two years. The license fee for each initial water conditioning installer license shall be ~~\$35~~ \$70, except that the license fee shall be ~~\$17.50~~ \$52.50 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning installer license shall be \$35 for one year or \$70 for two years.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of water conditioning contractor and installer licenses from one year to two years. By June 30, 2011, all renewed water conditioning contractor and installer licenses shall be two-year licenses. The commissioner may by rule prescribe for the expiration and renewal of licenses.

(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A water conditioning contractor or water conditioning installer who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

Sec. 20. Minnesota Statutes 2008, section 326B.815, subdivision 1, is amended to read:

Subdivision 1. **Licensing fee.** (a) The licensing fee for persons licensed pursuant to sections 326B.802 to 326B.885, except for manufactured home installers, is \$100 per year \$200 for a two-year period. The licensing fee for manufactured home installers under section 327B.041 is \$300 for a three-year period.

(b) All initial licenses, except for manufactured home installer licenses, shall be effective for two years and shall expire on March 31 of the year after the year in which the application is made. The license fee for each renewal of a residential contractor, residential remodeler, or residential roofer license shall be \$100 for one year and \$200 for two years.

(c) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of residential contractor, residential remodeler, and residential roofer licenses from one year to two years. By June 30, 2011, all renewed residential contractor, residential remodeler, and residential roofer licenses shall be two-year licenses.

Sec. 21. Minnesota Statutes 2008, section 326B.821, subdivision 2, is amended to read:

Subd. 2. **Hours.** A qualifying person of a licensee must provide proof of completion of ~~seven~~ 14 hours of continuing education per year two-year licensure period in the regulated industry in which the licensee is licensed.

Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

Sec. 22. Minnesota Statutes 2008, section 326B.86, subdivision 1, is amended to read:

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed residential roofers must post a surety bond in the name of the licensee with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. ~~The annual~~ bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by regular mail.

(b) A licensed residential roofer must post a bond of at least \$15,000.

(c) A licensed manufactured home installer must post a bond of at least \$2,500.

Bonds issued under sections 326B.802 to 326B.885 are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Sec. 23. Minnesota Statutes 2008, section 326B.885, subdivision 2, is amended to read:

Subd. 2. **Annual Renewal period.** ~~Any license issued or renewed after August 1, 1993, must be renewed annually except for~~ (a) A residential contractor, residential remodeler, and residential roofer license shall have a renewal period of two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of residential contractor, residential remodeler, and residential roofer licenses from one year to two years. By June 30, 2011, all renewed residential contractor, residential remodeler, and residential

roofer licenses shall be two-year licenses.

(b) A manufactured home installer's license ~~which~~ shall have a renewal period of three years, effective for all renewals and new licenses issued after December 31, 2008.

Sec. 24. Minnesota Statutes 2008, section 326B.89, subdivision 3, is amended to read:

Subd. 3. **Fund fees.** In addition to any other fees, a person who applies for or renews a license under sections 326B.802 to 326B.885 shall pay a fee to the fund. The person shall pay, in addition to the appropriate application or renewal fee, the following additional fee that shall be deposited in the fund. The amount of the fee shall be based on the person's gross annual receipts for the person's most recent fiscal year preceding the application or renewal, on the following scale:

Fee	Gross Annual Receipts
<del>\$160</del> <u>\$320</u>	under \$1,000,000
<del>\$210</del> <u>\$420</u>	\$1,000,000 to \$5,000,000
<del>\$260</del> <u>\$520</u>	over \$5,000,000

Sec. 25. Minnesota Statutes 2008, section 326B.89, subdivision 16, is amended to read:

Subd. 16. **Additional assessment.** If the balance in the fund is at any time less than the commissioner determines is necessary to carry out the purposes of this section, every licensee, when renewing a license, shall pay, in addition to the annual renewal fee and the fee set forth in subdivision 3, an assessment not to exceed ~~\$100~~ \$200. The commissioner shall set the amount of assessment based on a reasonable determination of the amount that is necessary to restore a balance in the fund adequate to carry out the purposes of this section.

Sec. 26. Minnesota Statutes 2008, section 326B.94, subdivision 4, is amended to read:

Subd. 4. **Examinations, licensing.** The commissioner shall develop and administer an examination for all masters of boats carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. ~~The license shall be renewed annually.~~ All initial master's licenses shall be for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master's licenses from one year to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section 326B.986, subdivision 2.

Sec. 27. Minnesota Statutes 2008, section 326B.972, is amended to read:

**326B.972 LICENSE REQUIREMENT.**

(a) To operate a boiler, steam engine, or turbine an individual must have received a license for the grade covering that boiler, steam engine, or turbine. ~~The license must be renewed annually, except as provided~~ Except for licenses described in section 326B.956 and except for provisional licenses described in paragraphs (d) to (g);

(1) all initial licenses shall be for two years;

(2) the commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of licenses from one year to two years; and

(3) by June 30, 2011, all licenses shall be two-year licenses.

(b) For purposes of sections 326B.952 to 326B.998, "operation" does not include monitoring of an automatic boiler, either through on premises inspection of the boiler or by remote electronic surveillance, provided that no operations are performed upon the boiler other than emergency shut down in alarm situations.

(c) No individual under the influence of illegal drugs or alcohol may operate a boiler, steam engine, or turbine or monitor an automatic boiler.

(d) The commissioner may issue a provisional license to allow an employee of a high pressure boiler plant to operate boilers greater than 500 horsepower at only that boiler plant if:

(1) the boiler plant has a designated chief engineer in accordance with Minnesota Rules, part 5225.0410;

(2) the boiler plant employee holds a valid license as a second-class engineer, Grade A or B;

(3) the chief engineer in charge of the boiler plant submits an application to the commissioner on a form prescribed by the commissioner to elicit information on whether the requirements of this paragraph have been met;

(4) the chief engineer in charge of the boiler plant and an authorized representative of the owner of the boiler plant both sign the application for the provisional license;

(5) the owner of the boiler plant has a documented training program with examination for boilers and equipment at the boiler plant to train and test the boiler plant employee; and

(6) if the application were to be granted, the total number of provisional licenses for employees of the boiler plant would not exceed the total number of properly licensed first-class engineers and chief engineers responsible for the safe operation of the boilers at the boiler plant.

(e) A public utility, cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility that employs licensed boiler operators who are subject to an existing labor contract may use a provisional licensee as an operator only if using the provisional licensee does not violate the labor contract.

(f) Each provisional license expires 36 months after the date of issuance unless revoked less than 36 months after the date of issuance. A provisional license may not be renewed.

(g) The commissioner may issue no more than two provisional licenses to any individual within a four-year period.

Sec. 28. Minnesota Statutes 2008, section 326B.986, subdivision 2, is amended to read:

Subd. 2. **Fee amounts; master's.** The license and application fee for a an initial master's license is \$50 \$70, or \$20 \$40 if the applicant possesses a valid, unlimited, current United States Coast Guard master's license. The annual renewal of fee for a master's license is \$20 for one year or \$40 for two years. The annual renewal If the renewal fee is paid later than 30 days after expiration is

~~\$35. The fee for replacement of a current, valid license is \$20, then a late fee of \$15 will be added to the renewal fee.~~

Sec. 29. Minnesota Statutes 2008, section 326B.986, subdivision 5, is amended to read:

Subd. 5. **Boiler engineer license fees.** (a) For the following licenses, the nonrefundable license and application fee is:

- (1) chief engineer's license, ~~\$50~~ \$70;
- (2) first class engineer's license, ~~\$50~~ \$70;
- (3) second class engineer's license, ~~\$50~~ \$70;
- (4) special engineer's license, ~~\$20~~ \$40;
- (5) traction or hobby boiler engineer's license, \$50; and
- (6) provisional license, \$50.

(b) An engineer's license, except a provisional license, may be renewed upon application and payment of an annual a renewal fee of \$20 for one year or \$40 for two years. The annual renewal, If the renewal fee is paid later than 30 days after expiration, is \$35. The fee for replacement of a current, valid license is \$20 then a late fee of \$15 will be added to the renewal fee.

Sec. 30. Minnesota Statutes 2008, section 326B.986, subdivision 8, is amended to read:

Subd. 8. **Certificate of competency.** The fee for issuance of the original state of Minnesota certificate of competency for inspectors is ~~\$50. This fee is waived \$85 for inspectors who did not pay the examination fee or \$35 for inspectors who paid the examination fee. All initial certificates of competency shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of certificates of competency from one calendar year to two calendar years. By June 30, 2011, all renewed certificates of competency shall be valid for two calendar years. The fee for an annual renewal of the state of Minnesota certificate of competency is \$35 for one year or \$70 for two years, and is due January 1 of each year. The fee for replacement of a current, valid license is \$35 the day after the certificate expires.~~

Sec. 31. Minnesota Statutes 2008, section 327B.04, subdivision 7, is amended to read:

Subd. 7. **Fees; Licenses; when granted.** Each application for a license or license renewal must be accompanied by a fee in an amount established by ~~the commissioner by rule pursuant to section 327B.10 subdivision 7a.~~ The fees shall be set in an amount which over the fiscal biennium will produce revenues approximately equal to the expenses which the commissioner expects to incur during that fiscal biennium while administering and enforcing sections 327B.01 to 327B.12. The commissioner shall grant or deny a license application or a renewal application within 60 days of its filing. If the license is granted, the commissioner shall license the applicant as a dealer or manufacturer for the remainder of the ~~calendar year~~ licensure period. Upon application by the licensee, the commissioner shall renew the license for a two year period, if:

- (a) (1) the renewal application satisfies the requirements of subdivisions 3 and 4;

~~(b)~~ (2) the renewal applicant has made all listings, registrations, notices and reports required by the commissioner during the preceding year licensure period; and

~~(c)~~ (3) the renewal applicant has paid all fees owed pursuant to sections 327B.01 to 327B.12 and all taxes, arrearages, and penalties owed to the state.

Sec. 32. Minnesota Statutes 2008, section 327B.04, is amended by adding a subdivision to read:

Subd. 7a. Fees. (a) Fees for licenses issued pursuant to this section are as follows:

(1) initial dealer license for principal location, \$400. Fee is not refundable;

(2) initial dealer license for subagency location, \$80;

(3) dealer license biennial renewal, principal location, \$400; dealer subagency location biennial renewal, \$160. Subagency license renewal must coincide with the principal license date;

(4) initial limited dealer license, \$200;

(5) change of bonding company, \$10;

(6) reinstatement of bond after cancellation notice has been received, \$10;

(7) checks returned without payment, \$15; and

(8) change of address, \$10.

(b) All initial limited dealer licenses shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made.

(c) The license fee for each renewed limited dealer license shall be \$100 for one year and \$200 for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of limited dealer licenses from one year to two years. By June 30, 2011, all renewed limited dealer licenses shall be two-year licenses.

(d) All fees are not refundable.

Sec. 33. Minnesota Statutes 2008, section 327B.04, subdivision 8, is amended to read:

Subd. 8. **Limited dealer's license.** The commissioner shall issue a limited dealer's license to an owner of a manufactured home park authorizing the licensee as principal only to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park. The licensee must be the title holder of the homes and may engage in no more than ten sales annually during each year of the two-year licensure period. An owner may, upon payment of the applicable fee and compliance with this subdivision, obtain a separate license for each owned manufactured home park and is entitled to sell up to ~~ten~~ 20 homes per license period provided that only one limited dealer license may be issued for each park. The license shall be issued after:

(1) receipt of an application on forms provided by the commissioner containing the following information:

(i) the identity of the applicant;

- (ii) the name under which the applicant will be licensed and do business in this state;
  - (iii) the name and address of the owned manufactured home park, including a copy of the park license, serving as the basis for the issuance of the license;
  - (iv) the name, home, and business address of the applicant;
  - (v) the name, address, and telephone number of one individual that is designated by the applicant to receive all communications and cooperate with all inspections and investigations of the commissioner pertaining to the sale of manufactured homes in the manufactured home park owned by the applicant;
  - (vi) whether the applicant or its designated individual has been convicted of a crime within the previous ten years that is either related directly to the business for which the license is sought or involved fraud, misrepresentation or misuse of funds, or has suffered a judgment in a civil action involving fraud, misrepresentation, or conversion within the previous five years or has had any government license or permit suspended or revoked as a result of an action brought by a federal or state governmental agency in this or any other state within the last five years; and
  - (vii) the applicant's qualifications and business history, including whether the applicant or its designated individual has ever been adjudged bankrupt or insolvent, or has any unsatisfied court judgments outstanding against it or them;
- (2) payment of a ~~\$100 annual~~ the license fee established by subdivision 7a; and
  - (3) provision of a surety bond in the amount of \$5,000. A separate surety bond must be provided for each limited license.

The applicant need not comply with section 327B.04, subdivision 4, paragraph (e). The holding of a limited dealer's license does not satisfy the requirement contained in section 327B.04, subdivision 4, paragraph (e), for the licensee or salespersons with respect to obtaining a dealer license. The commissioner may, upon application for a renewal of a license, require only a verification that copies of sales documents have been retained and payment of a ~~\$100~~ the renewal fee established by subdivision 7a. "Sales documents" mean only the safety feature disclosure form defined in section 327C.07, subdivision 3a, title of the home, financing agreements, and purchase agreements.

The license holder shall, upon request of the commissioner, make available for inspection during business hours sales documents required to be retained under this subdivision.

Sec. 34. **REPEALER.**

Minnesota Rules, part 1350.8300, is repealed.

## ARTICLE 6

### MISCELLANEOUS PROVISIONS

Section 1. **[1.1499] STATE SPORT.**

Ice hockey is adopted as the official sport of the state of Minnesota.

Sec. 2. Minnesota Statutes 2008, section 41A.02, subdivision 17, is amended to read:

Subd. 17. **Small business development loan.** "Small business development loan" means a loan to a business that is an "eligible small business" to finance:

(1) capital expenditures on an interim or long-term basis to acquire or improve land, acquire, construct, rehabilitate, remove, or improve buildings, or to acquire and install fixtures and equipment useful to conduct a small business, including facilities of a capital nature useful or suitable for a business engaged in an enterprise promoting employment including, without limitation, facilities included within the meaning of the term "project" as defined in sections 469.153, subdivision 2, and 469.155, subdivision 4;

(2) working capital; and

(3) intangible property, such as any patent, copyright, formula, process, design, pattern, know-how, format, or other similar item.

Sec. 3. Minnesota Statutes 2008, section 41A.036, subdivision 4, is amended to read:

Subd. 4. **Exemption from limitation.** If the board determines that a ~~revenue-producing enterprise~~ an eligible small business is eligible for special assistance, the \$1,000,000 limitation established in subdivision 1 does not apply.

Sec. 4. Minnesota Statutes 2008, section 41A.036, subdivision 5, is amended to read:

Subd. 5. **Designation; criteria.** ~~A revenue-producing enterprise~~ An eligible small business is not eligible to receive special assistance unless the board has passed a resolution designating the ~~revenue-producing enterprise~~ eligible small business as being in need of special assistance. The resolution must include findings that the designation and receipt of the special assistance will be of exceptional benefit to the state of Minnesota in that at least three of the following criteria are met:

(1) to expand or remain in Minnesota, the ~~revenue-producing enterprise~~ eligible small business has demonstrated that it cannot obtain suitable financing from other sources;

(2) special assistance will enable a ~~revenue-producing enterprise~~ an eligible small business not currently located in Minnesota to locate a facility in Minnesota that directly increases the number of jobs in the state;

(3) the ~~revenue-producing enterprise~~ eligible small business will create or retain significant numbers of jobs in a Minnesota community;

(4) the ~~revenue-producing enterprise~~ eligible small business has a significant potential for growth in jobs or economic activities in Minnesota during the ensuing five-year period; and

(5) the ~~revenue-producing enterprise~~ eligible small business will maintain a significant level of productivity in Minnesota during the ensuing five-year period.

Sec. 5. Minnesota Statutes 2008, section 85.0146, subdivision 1, is amended to read:

Subdivision 1. **Advisory council created.** The Cuyuna Country State Recreation Area Citizens Advisory Council is established. Notwithstanding section 15.059, the council does not expire. Membership on the advisory council shall include:

(1) a representative of the Cuyuna Range Mineland Recreation Area Joint Powers Board;

- (2) a representative of the Croft Mine Historical Park Joint Powers Board;
- (3) a designee of the Cuyuna Range Mineland Reclamation Committee who has worked as a miner in the local area;
- (4) a representative of the Crow Wing County Board;
- (5) an elected state official;
- (6) a representative of the Grand Rapids regional office of the Department of Natural Resources;
- (7) a designee of the Iron Range Resources and Rehabilitation Board;
- (8) a designee of the local business community selected by the area chambers of commerce;
- (9) a designee of the local environmental community selected by the Crow Wing County District 5 commissioner;
- (10) a designee of a local education organization selected by the Crosby-Ironton School Board;
- (11) a designee of one of the recreation area user groups selected by the Cuyuna Range Chamber of Commerce; and
- (12) a member of the Cuyuna Country Heritage Preservation Society.

Sec. 6. Minnesota Statutes 2008, section 89A.08, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The council shall appoint a Forest Resources Research Advisory Committee. Notwithstanding section 15.059, the council does not expire. The committee must consist of representatives of:

- (1) the College of Natural Resources, University of Minnesota;
- (2) the Natural Resources Research Institute, University of Minnesota;
- (3) the department;
- (4) the North Central Forest Experiment Station, United States Forest Service; and
- (5) other organizations as deemed appropriate by the council.

Sec. 7. Minnesota Statutes 2008, section 115C.08, subdivision 4, is amended to read:

Subd. 4. **Expenditures.** (a) Money in the fund may only be spent:

- (1) to administer the petroleum tank release cleanup program established in this chapter;
- (2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;
- (3) for costs of recovering expenses of corrective actions under section 115C.04;
- (4) for training, certification, and rulemaking under sections 116.46 to 116.50;
- (5) for agency administrative costs of enforcing rules governing the construction, installation,

operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093;

(9) for contamination cleanup grants, as provided in paragraph (c); and

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) \$6,200,000 is annually appropriated from the fund to the commissioner of employment and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to \$180,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of employment and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01.

#### **Sec. 8. [137.701] UNIVERSITY NEIGHBORHOOD DEVELOPMENT.**

Subdivision 1. **Purpose.** In order to support and create an environment surrounding the campuses of the University of Minnesota in Minneapolis and Duluth, that is conducive to the purposes of higher education and a vital community, the Board of Regents and the cities of Minneapolis and Duluth shall create with the Marcy Holmes, Southeast Como, Prospect Park, and Cedar-Riverside neighborhood and business associations, an appropriate organization so that they cooperate in the development of those neighborhoods. The organization shall include

representatives from the Marcy Holmes, Southeast Como, Prospect Park, and Cedar-Riverside neighborhood and business associations. The purpose of the organization is to improve the university's Minneapolis and Duluth campus area neighborhoods including, but not limited to, the following:

(1) providing and supporting the development of good quality university neighborhood housing, including housing for students, faculty, employees, alumni, and others who may wish to live in the university area neighborhoods;

(2) encouraging and assisting university faculty, staff, students, and others to live in the neighborhood as long-term residents;

(3) supporting and assisting appropriate business development in commercial areas of the neighborhood; and

(4) cooperating and coordinating planning and development in all matters affecting the neighborhood with local government, businesses, residents, and other stakeholders in the neighborhood.

Subd. 2. **Membership.** The organization created by the Board of Regents and the city of Minneapolis shall include representatives from the organizations currently represented on the University District Alliance Steering Committee. The Board of Regents and the city of Duluth may establish the membership of an organization for the purposes of subdivision 1.

Subd. 3. **Report.** The Board of Regents and the cities of Minneapolis and Duluth shall report by January 15, 2010, to the chairs and ranking minority members of the legislative committees with primary jurisdiction over higher education policy and finance and economic development and housing finance on the status and activities of the organization that is created.

Sec. 9. Minnesota Statutes 2008, section 154.001, is amended to read:

**154.001 BOARD OF BARBER AND COSMETOLOGIST EXAMINERS CREATED; TERMS.**

Subdivision 1. **Definition.** For the purposes of this chapter, "board" means the Board of Barber Examiners.

Subd. 2. **Board of Barber Examiners.** (a) A Board of Barber and Cosmetologist Examiners is established to consist of 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 registered barbers 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. One of the barber members shall be a member of, or recommended by, a union of journeymen barbers that has existed at least two years, and one barber member shall be a member of, or recommended by, a professional organization of barbers.

~~(c) All cosmetologist members must be currently licensed in the field of cosmetology in 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 154.40 to 154.54 and Minnesota Rules, chapters 2642 and 2644. The cosmetologist members shall be members of, or recommended by, a professional organization of cosmetologists, manicurists, or estheticians.~~

~~(d)~~ Subd. 3. **Membership terms.** (a) 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)~~(b) 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 154.001, 154.002, 154.003, 154.01 to 154.161, 154.19 to 154.21, and 154.24 to 154.26. The cosmetologist members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 154.40 to 154.54. Staff hired by the board, including inspectors, shall serve both professions.~~

Sec. 10. Minnesota Statutes 2008, section 154.003, is amended to read:

**154.003 FEES.**

(a) The fees collected, as required in this chapter, chapter 214, and the rules of the board, shall be paid to the executive secretary of the board. The executive secretary shall deposit the fees in the general fund in the state treasury.

(b) The board shall charge the following fees:

- (1) examination and certificate, registered barber, \$65;
- (2) examination and certificate, apprentice, \$60;
- (3) examination, instructor, \$160;
- (4) certificate, instructor, \$45;
- (5) temporary teacher or apprentice permit, ~~\$50~~ \$60;
- (6) renewal of license, registered barber, ~~\$50~~ \$60;
- (7) renewal of license, apprentice, ~~\$45~~ \$50;
- (8) renewal of license, instructor, \$60;
- (9) renewal of temporary teacher permit, ~~\$35~~ \$45;
- (10) student permit, \$25;
- (11) initial shop registration, ~~\$60~~ \$65;
- (12) initial school registration, \$1,010;

- (13) renewal shop registration, ~~\$60~~ \$65;
- (14) renewal school registration, \$260;
- (15) restoration of registered barber license, \$75;
- (16) restoration of apprentice license, \$70;
- (17) restoration of shop registration, \$85;
- (18) change of ownership or location, \$35;
- (19) duplicate license, \$20;
- (20) home study course, \$75; and
- (21) registration of hair braiders, \$20 per year.

Sec. 11. Minnesota Statutes 2008, section 154.19, is amended to read:

**154.19 VIOLATIONS.**

Each of the following constitutes a misdemeanor:

- (1) The violation of any of the provisions of section 154.01;
- (2) Permitting any person in one's employ, supervision, or control to practice as a registered barber or registered apprentice unless that person has a certificate of registration as a registered barber or registered apprentice;
- (3) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;
- (4) Practicing or attempting to practice by fraudulent misrepresentation;
- (5) The willful failure to display a certificate of registration as required by section 154.14;
- (6) The use of any room or place for barbering which is also used for residential or business purposes, except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package, and such commodities as are used and sold in barber shops, and except that shoeshining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes, and where a barber shop is situated in a residence, poolroom, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store, or soft drink parlor, there must be an outside entrance leading into the barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this section and except that a barber shop and beauty parlor may be operated in conjunction, without the same being separated by partition of ceiling height;
- (7) The failure or refusal of any barber or other person in charge of any barber shop, or any person in barber schools or colleges doing barber service work, to use separate and clean towels for each customer or patron, or to discard and launder each towel after once being used;

(8) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college, in a sanitary manner, or the failure or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with municipal water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of not less than five gallons;

(9) For the purposes of ~~sections 154.001, 154.002, 154.003, 154.01 to 154.161, 154.19 to 154.21, and 154.24 to 154.26~~ this section, barbers, students, apprentices, or the proprietor or manager of a barber shop, or barber school or barber college, shall be responsible for all violations of the sanitary provisions of ~~sections 154.001, 154.002, 154.003, 154.01 to 154.161, 154.19 to 154.21, and 154.24 to 154.26~~ this section, and if any barber shop, or barber school or barber college, upon inspection, shall be found to be in an unsanitary condition, the person making such inspection shall immediately issue an order to place the barber shop, or barber school, or barber college, in a sanitary condition, in a manner and within a time satisfactory to the Board of Barber and Cosmetologist Examiners, and for the failure to comply with such order the board shall immediately file a complaint for the arrest of the persons upon whom the order was issued, and any registered barber who shall fail to comply with the rules adopted by the Board of Barber and Cosmetologist Examiners, with the approval of the state commissioner of health, or the violation or commission of any of the offenses described in this section and section 154.16 154.161, subdivision 4, paragraph (a), clauses (1), (2), (3), and (4), (5), (6), (7), (8), (9) to (12), and of clauses (1), (2), (3), (4), (5), (6), (7), (8), and (9) of this section, shall be fined not less than \$10 or imprisoned for ten days and not more than \$100 or imprisoned for 90 days.

Sec. 12. Minnesota Statutes 2008, section 154.44, subdivision 1, is amended to read:

Subdivision 1. **Schedule.** The fee schedule for licensees is as follows:

(a) Three-year license fees:

- (1) cosmetologist, manicurist, esthetician, \$90 for each initial license, and \$60 for each renewal;
- (2) instructor, manager, \$120 for each initial license, and \$90 for each renewal;
- (3) salon, \$130 for each initial license, and \$100 for each renewal; and
- (4) school, \$1,500.

(b) Penalties:

- (1) reinspection fee, variable; ~~and~~
- (2) manager and owner with lapsed practitioner, ~~\$25~~ \$150 each;
- (3) expired cosmetologist, manicurist, esthetician, manager, school manager, and instructor license, \$45; and
- (4) expired salon or school license, \$50.

(c) Administrative fees:

- (1) certificate of identification, \$20; ~~and~~
- (2) school original application, \$150;
- (3) name change, \$20;
- (4) letter of license verification, \$30;
- (5) duplicate license, \$20;
- (6) processing fee, \$10; and
- (7) special event permit, \$75 per year.

(d) All fees established in this subdivision must be paid to the executive secretary of the board. The executive secretary of the board shall deposit the fees in the general fund in the state treasury.

Sec. 13. Minnesota Statutes 2008, section 154.51, is amended to read:

#### **154.51 ENFORCEMENT.**

Subdivision 1. **Proceedings.** The provisions of section 154.161 apply to the administration of sections 154.40 to 154.54. If the board, or a complaint committee if authorized by the board, has a reasonable basis for believing that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board or complaint committee may proceed as provided in subdivision 2 or 3. Except as otherwise provided in this section, all hearings must be conducted in accordance with the Administrative Procedure Act.

Subd. 2. **Legal actions.** (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the District Court of Ramsey County in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's license or registration, or application for examination, license, registration, or renewal.

Subd. 3. **Cease and desist orders.** (a) The board, or complaint committee if authorized by the board, may issue and have served upon an unlicensed or unregistered person, or a holder of a license or registration, an order requiring the person to cease and desist from an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must (1) give reasonable notice of the rights of the person named in the order to request a hearing, and (2) state the reasons for the entry of the order. No order may

be issued under this subdivision until an investigation of the facts has been conducted under section 214.10.

(b) Service of the order under this subdivision is effective when the order is personally served on the person or counsel of record, or served by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) The board must hold a hearing under this subdivision not later than 30 days after the board receives the request for the hearing, unless otherwise agreed between the board, or complaint committee if authorized by the board, and the person requesting the hearing.

(d) Notwithstanding any rule to the contrary, the administrative law judge must issue a report within 30 days of the close of the contested case hearing. Within 30 days after receiving the report and subsequent exceptions and argument, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the board.

**Subd. 4. Licensing and registration actions.** (a) With respect to a person who is a holder of or applicant for a license or registration under this chapter, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, license, or registration, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of a profession regulated by this chapter, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of the profession;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of a profession regulated by this chapter;

(4) employed fraud or deception in obtaining a license, registration, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a license, registration, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's license or registration;

(7) practiced in a profession regulated by this chapter while having an infectious or contagious disease;

(8) advertised by means of false or deceptive statements;

(9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(10) demonstrated unprofessional conduct or practice;

(11) permitted an employee or other person under the person's supervision or control to practice as a licensee, registrant, or instructor of a profession regulated by this chapter unless that person has (i) a current license or registration issued by the board, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of a profession regulated by the board;

(12) practices, offered to practice, or attempted to practice by misrepresentation;

(13) failed to display a license or registration as required by rules adopted by the board;

(14) used any room or place of practice of a profession regulated by the board that is also used for any other purpose, or used any room or place of practice of a profession regulated by the board that violates the board's rules governing sanitation;

(15) failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a licensee, registrant, or other person in charge of any school or place of practice of a profession regulated by the board, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the service or practice of the profession regulated by the board, (ii) failed to have water and sewer connections from the place of practice or school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by this chapter, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a license or registration when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise an apprentice, or permitted the practice of a profession regulated by the board by a person not registered or licensed with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of chapter 141 or a provision of another chapter that relates to schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may, as a condition of continued licensure or registration, termination of suspension, reinstatement of licensure or registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) completes to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served in person, or is served by certified mail to the most recent address provided to the board by the licensee, registrant, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

Subd. 5. **Temporary suspension.** (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the licensee, registrant, or counsel of record. The order must specify the statute, rule, or order violated by the licensee or registrant. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the licensee or registrant.

(b) An order under this subdivision may (1) prohibit the licensee or registrant from engaging in the practice of a profession regulated by the board in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision, the licensee or registrant may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at the hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the Administrative Procedure Act. Evidence presented to the board or the licensee or registrant may be in affidavit form only. The licensee, registrant, or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

Subd. 6. **Violations; penalties; costs.** (a) The board may impose a civil penalty of up to \$2,000 per violation on a person who violates a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(b) In addition to any penalty under paragraph (a), the board may impose a fee to reimburse the board for all or part of the cost of (1) the proceedings resulting in disciplinary action authorized under this section, (2) the imposition of a civil penalty under paragraph (a), or (3) the issuance of a cease and desist order. The board may impose a fee under this paragraph when the board shows that the position of the person who has violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce is not substantially justified unless special circumstances make such a fee unjust, notwithstanding any rule to the contrary. Costs under this paragraph include, but are not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reporter costs, witness costs, reproduction of records, board members' compensation, board staff time, and expenses incurred by board members and staff.

(c) All hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

Subd. 7. **Reinstatement.** Upon petition of the former or suspended licensee or registrant, the board may reinstate a suspended, revoked, or surrendered license or registration. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered license or registration that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No license or registration may be reinstated until the former licensee or registrant has completed at least one-half of the suspension period.

**Sec. 14. [155A.20] BOARD OF COSMETOLOGIST EXAMINERS CREATED; TERMS.**

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

(b) All cosmetologist members must be currently licensed in the field of cosmetology, manicuring, or esthetology, in Minnesota, have practiced in the licensed occupation for at least five years immediately prior to their appointment, be graduates from grade 12 of high school or have equivalent education, and have knowledge of sections 154.40 to 154.54 and Minnesota Rules, chapters 2105 and 2110. The cosmetologist members shall be members of, or recommended by, a professional organization of cosmetologists, manicurists, or estheticians.

(c) 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.

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

**Sec. 15. [155A.21] SPECIAL EVENTS.**

Subdivision 1. **Special event services.** For purposes of this section, "special event services" means services rendered for compensation and performed at a location other than a licensed salon. These services include, but are not limited to, the practice of nonpermanent manipulation of the hair, such as styling, setting, reinforcing, or extending the hair; the application of nail polish to the nails; and the application of makeup to the skin.

Subd. 2. **Special event services permit.** (a) No person shall perform special event services without first obtaining a special event services permit from the board. To be eligible for a special event services permit, a person must have a valid manager's license issued by the board under the authority of section 154.46.

(b) An individual applying for a special event services permit must submit to the board, on a form approved by the board, an application for a special event services permit.

(c) An individual providing services under a special event services permit may only perform services within the individual's specific field of licensure and as defined by the permit. The services provided pursuant to the special event services permit must comply with the requirements of this chapter and all federal, state, and local laws.

Sec. 16. Minnesota Statutes 2008, section 160.16, is amended by adding a subdivision to read:

Subd. 4. **Business signs.** A road or transit authority, before entering into a contract for construction, reconstruction, or improvement of a street or highway, shall identify any business that will experience access, parking, or visibility impacts during construction. The road or transit authority shall consult with affected businesses before and during construction to plan signage that will mitigate adverse effects on businesses during project construction.

Sec. 17. **[161.2415] MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.**

Subdivision 1. **Definition.** For the purposes of this section, "project" means road work to maintain, construct, or improve a street or highway, or for a transit improvement, if the work is anticipated by the road or transit authority to impair road access to one or more business establishments for a minimum period of one month.

Subd. 2. **Business liaison.** (a) Before the beginning of project construction work, the road or transit authority shall identify businesses that are adjacent to the construction area or whose access to the business premises or parking will be impaired by the project and designate an individual to serve as business liaison between the road or transit authority and the affected businesses.

(b) The business liaison shall provide information to the identified businesses, before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Sec. 18. Minnesota Statutes 2008, section 178.02, subdivision 2, is amended to read:

Subd. 2. **Terms.** The board shall not expire. ~~and~~ The terms, compensation, and removal of appointed members shall be as provided in section 15.059.

Sec. 19. Minnesota Statutes 2008, section 181.723, is amended by adding a subdivision to read:

Subd. 17. **Advisory task force on employee misclassification.** (a) The commissioner of the Department of Labor and Industry shall appoint an advisory task force on employee misclassification and "off-the-books" payment of workers in the construction industry. The advisory task force shall consist of the following members:

- (1) the commissioner of the Department of Labor and Industry or designee;
- (2) the commissioner of the Department of Employment and Economic Development or designee;
- (3) the commissioner of the Department of Revenue or designee;
- (4) the attorney general or designee;
- (5) a representative appointed by the Minnesota County Attorneys Association;
- (6) two members who are members of a labor organization that represents members who perform public or private sector commercial or residential building construction or improvement services;
- (7) one member who is a general contractor or a representative of general contractors that

performs public or private sector commercial building construction or improvement services;

(8) one member who is a general contractor or a representative of general contractors that performs public or private sector residential building construction or improvement services;

(9) one member who is a subcontractor or a representative of subcontractors that performs public or private sector commercial building construction or improvement services;

(10) one member who is a subcontractor or a representative of subcontractors that performs public or private sector residential building construction or improvement services; and

(11) up to three additional members who perform public or private sector commercial or residential building and construction or improvement services including one member who is an independent contractor with a current independent contractor certificate; one member who is a limited liability corporation; and one member who is an employee.

The commissioner of the Department of Labor and Industry or designee shall serve as the advisory task force chair. The advisory task force shall meet on a regular basis.

(b) The advisory task force shall have the following duties:

(1) advise the commissioner on the development, implementation, and coordination of enforcement activities, including information sharing and joint investigation and prosecution of persons who violate laws under the jurisdiction of the Department of Labor and Industry, Department of Employment and Economic Development, and the Department of Revenue; and

(2) advise the commissioner on the development and adoption of necessary legislation, regulations, policies, and procedures.

(c) The advisory task force shall expire and the terms, compensation, and removal of members shall be as provided in section 15.059, subdivision 6.

(d) The advisory task force shall, prior to its expiration, report to the legislature a summary of the advice it provided to the commissioner.

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

Sec. 20. Minnesota Statutes 2008, section 182.656, subdivision 3, is amended to read:

Subd. 3. ~~Meetings; expiration of council.~~ A majority of the council members constitutes a quorum. The council shall meet at the call of its chair, or upon request of any six members. A tape recording of the meeting with the tape being retained for a one-year period will be available upon the request and payment of costs to any interested party. The council shall expire and the terms, compensation, and removal of members shall be as provided in section 15.059, except that the council shall not expire ~~before June 30, 2003.~~

Sec. 21. Minnesota Statutes 2008, section 214.01, subdivision 3, is amended to read:

Subd. 3. **Non-health-related licensing board.** "Non-health-related licensing board" means the Board of Teaching established pursuant to section 122A.07, the Board of Barber Examiners established pursuant to section 154.001, the Board of Cosmetologist Examiners established pursuant to section 155A.20, the Board of Assessors established pursuant to section 270.41, the

Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design established pursuant to section 326.04, the Private Detective and Protective Agent Licensing Board established pursuant to section 326.33, the Board of Accountancy established pursuant to section 326A.02, and the Peace Officer Standards and Training Board established pursuant to section 626.841.

Sec. 22. Minnesota Statutes 2008, section 214.04, subdivision 3, is amended to read:

Subd. 3. **Officers; staff.** The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) Dentistry;
- (2) Medical Practice;
- (3) Nursing;
- (4) Pharmacy;
- (5) Accountancy;
- (6) Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design;
- (7) Barber Examiners;
- (8) ~~Cosmetology~~ Cosmetologist Examiners;
- (9) Teaching;
- (10) Peace Officer Standards and Training;
- (11) Social Work;
- (12) Marriage and Family Therapy;
- (13) Dietetics and Nutrition Practice;
- (14) Licensed Professional Counseling; and
- (15) Combative Sports Commission.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this

subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 23. Minnesota Statutes 2008, section 216B.1612, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying owner" means:

(1) a Minnesota resident;

(2) a limited liability company that is organized under chapter 322B and that is made up of members who are Minnesota residents;

(3) a Minnesota nonprofit organization organized under chapter 317A;

(4) a Minnesota cooperative association organized under chapter 308A or 308B, including a rural electric cooperative association or a generation and transmission cooperative on behalf of and at the request of a member distribution utility;

(5) a Minnesota political subdivision or local government including, but not limited to, a municipal electric utility, or a municipal power agency on behalf of and at the request of a member distribution utility, the office of the commissioner of Iron Range resources and rehabilitation, a county, statutory or home rule charter city, town, school district, or public or private higher education institution or any other local or regional governmental organization such as a board, commission, or association; or

(6) a tribal council.

(d) "Net present value rate" means a rate equal to the net present value of the nominal payments to a project divided by the total expected energy production of the project over the life of its power purchase agreement.

(e) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing any adverse or unsafe consequences; and

(2) is consistent with the utility's resource needs as identified in its most recent resource plan submitted under section 216B.2422.

(f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1, paragraph (a).

(g) "Community-based energy development project" or "C-BED project" means a new renewable energy project that either as a stand-alone project or part of a partnership under subdivision 8:

(1) has no single qualifying owner owning more than 15 percent of a C-BED wind energy project unless: (i) the C-BED wind energy project consists of only one or two turbines; or (ii) the qualifying owner is a public entity listed under paragraph (c), clause (5), that is not a municipal utility;

(2) demonstrates that at least 51 percent of the gross revenues from a power purchase agreement over the life of the project will flow to qualifying owners and other local entities; and

(3) has a resolution of support adopted by the county board of each county in which the project is to be located, or in the case of a project located within the boundaries of a reservation, the tribal council for that reservation.

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

Sec. 24. Minnesota Statutes 2008, section 298.2213, subdivision 5, is amended to read:

Subd. 5. **Advisory committees.** Before submission to the board of a proposal for a project for expenditure of money appropriated under this section, the commissioner of Iron Range resources and rehabilitation shall appoint a technical advisory committee consisting of at least seven persons who are knowledgeable in areas related to the objectives of the proposal. If the project involves investment in a scientific research proposal, at least four of the committee members must be knowledgeable in the specific scientific research area relating to the project. Members of the committees must be compensated as provided in section 15.059, subdivision 3. The board shall not act on a proposal until it has received the evaluation and recommendations of the technical advisory committee. Notwithstanding section 15.059, the committees do not expire.

Sec. 25. Minnesota Statutes 2008, section 298.2214, subdivision 1, is amended to read:

Subdivision 1. **Creation of committee; purpose.** A committee is created to advise the commissioner of Iron Range resources and rehabilitation on providing higher education programs in the taconite assistance area defined in section 273.1341. The committee is subject to section 15.059 but does not expire.

Sec. 26. Minnesota Statutes 2008, section 298.297, is amended to read:

**298.297 ADVISORY COMMITTEES.**

Before submission of a project to the board, the commissioner of Iron Range resources and rehabilitation shall appoint a technical advisory committee consisting of one or more persons who are knowledgeable in areas related to the objectives of the proposal. Members of the committees shall be compensated as provided in section 15.059, subdivision 3. The board shall not act on a proposal until it has received the evaluation and recommendations of the technical advisory committee or until 15 days have elapsed since the proposal was transmitted to the advisory committee, whichever occurs first. Notwithstanding section 15.059, the committees do not expire.

Sec. 27. Laws 1998, chapter 404, section 23, subdivision 6, as amended by Laws 2002, chapter 220, article 10, section 35, subdivision 6, is amended to read:

Subd. 6. **St. Paul RiverCentre Arena**

65,000,000

This appropriation is from the general fund to the commissioner of finance for a loan to

the city of St. Paul to demolish the existing St. Paul RiverCentre Arena and to design, construct, furnish, and equip a new arena. This appropriation is not available until the lessee to whom the city has leased the arena has agreed to make rental or other payments to the city under the terms set forth in this subdivision. The loan is repayable solely from and secured by the payments made to the city by the lessee. The loan is not a public debt and the full faith, credit, and taxing powers of the city are not pledged for its repayment.

(a) ~~\$48,000,000~~ \$15,250,000 of the loan must be repaid to the commissioner, without interest, within ~~20~~ 12 years from the date of substantial completion of the arena in accordance with the following schedule:

(1) no repayments are due in the first two years from the date of substantial completion;

(2) in each of the years three to five, the lessee must pay \$1,250,000;

(3) in each of the years six to ten, the lessee must pay \$1,500,000; and

(4) in each of the years 11 to ~~13~~ 12, the lessee must pay \$2,000,000;

~~(5) in year 14, the lessee must pay \$3,000,000;~~

~~(6) in year 15, the lessee must pay \$4,000,000; and~~

~~(7) in each of the years 16 to 20, the lessee must pay \$4,750,000.~~

(b) The commissioner must deposit the repayments in the state treasury and credit them to the general fund.

(c) The loan may not be made until the commissioner has entered into an agreement with the city of St. Paul identifying the rental or other payments that will be made and establishing the dates on and the amounts in which the payments will be made to the city and by the city to the commissioner. The

payments may include operating revenues and additional payments to be made by the lessee under agreements to be negotiated between the commissioner, the city, and the lessee. Those agreements may include, but are not limited to, an agreement whereby the lessee pledges to provide each year a letter of credit sufficient to guarantee the payment of the amount due for the next succeeding year; an agreement whereby the lessee agrees to maintain a net worth, certified each year by a financial institution or accounting firm satisfactory to the commissioner, that is greater than the balance due under the payment schedule in paragraph (a); and any other agreements the commissioner may deem necessary to ensure that the payments are made as scheduled. Payments made by the lessee under the lease in amounts equal to the amount of the loan forgiven after year 12 must be used solely by the city to pay for or finance the design, acquisition, construction, and equipping of a public facility to be located within the block 39/arena tax increment district.

(d) The agreements must provide that the failure of the lessee to make a payment due to the city under the agreement is an event of default under the lease between the city and the lessee and that the state is entitled to enforce the remedies of the lessor under the lease in the event of default. Those remedies must include, but need not be limited to, the obligation of the lessee to pay the balance due for the remainder of the payment schedule in the event the lessee ceases to operate a National Hockey League team in the arena.

(e) By January 1, 1999, the commissioner shall report to the chair of the senate committee on state government finance and the chair of the house committee on ways and means the terms of an agreement between the lessee and the amateur sports commission whereby the lessee agrees to make the facilities of the arena available to the commission on terms satisfactory to

the commission for amateur sports activities consistent with the purposes of Minnesota Statutes, chapter 240A, each year during the time the loan is outstanding. The amateur sports commission must negotiate in good faith and may be required to pay no more than actual out-of-pocket expenses for the time it uses the arena. The agreement may not become effective before February 1, 1999. During any calendar year after 1999 that an agreement under this paragraph is not in effect and a payment is due under the schedule, the lessee must pay to the commissioner a penalty of \$750,000 for that year. If the amateur sports commission has not negotiated in good faith, no penalty is due.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day after the Saint Paul city council and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

**Sec. 28. TRANSFER OF AUTHORITY AND STAFF.**

Subdivision 1. **Transfer of authority.** (a) The responsibilities of the Board of Barber and Cosmetologist Examiners covered in Minnesota Statutes 2008, sections 154.001 to 154.26, are transferred under Minnesota Statutes, section 15.039, to the Board of Barber Examiners.

(b) The responsibilities of the Board of Barber and Cosmetologist Examiners covered in Minnesota Statutes 2008, sections 154.40 to 154.54, are transferred under Minnesota Statutes, section 15.039, to the Board of Cosmetologist Examiners.

Subd. 2. **Rulemaking.** Rulemaking authority pursuant to Minnesota Statutes 2008, sections 154.001 to 154.26, of the Board of Barber and Cosmetologist Examiners is transferred to the Board of Barber Examiners. Rulemaking authority pursuant to Minnesota Statutes 2008, sections 154.40 to 154.54, of the Board of Barber and Cosmetologist Examiners is transferred to the Board of Cosmetologist Examiners. All rules adopted by the Board of Barber and Cosmetologist Examiners in Minnesota Rules, chapter 2100, remain in effect and shall be enforced until amended or repealed according to law by the Board of Barber Examiners. All rules adopted by the Board of Barber and Cosmetologist Examiners in Minnesota Rules, chapters 2105 and 2110, remain in effect and shall be enforced until amended or repealed according to law by the Board of Cosmetologist Examiners.

Subd. 3. **Transfer of board members.** The board members serving in unexpired terms appointed to the Board of Barber and Cosmetologist Examiners pursuant to Minnesota Statutes 2008, section 154.001, paragraph (b), shall be appointed to serve the remainder of their terms as members of the Board of Barber Examiners, notwithstanding the requirements of Minnesota Statutes, section 154.001, subdivision 2. The board members serving in unexpired terms appointed to the Board of Barber and Cosmetologist Examiners pursuant to Minnesota Statutes 2008, section 154.001, paragraph (c), shall be appointed to serve the remainder of their terms as members of the Board of Cosmetologist Examiners, notwithstanding the requirements of Minnesota Statutes,

section 155A.20.

Subd. 4. **Transfer of staff.** (a) The staff of the Board of Barber and Cosmetologist Examiners is transferred to the Board of Barber Examiners and the Board of Cosmetologist Examiners under Minnesota Statutes, section 15.039, according to the requirements of paragraph (b). In addition to any other protection, no employee shall suffer job loss, have a salary reduced, or have employment benefits reduced as a result of the transfer of authority from the Board of Barber and Cosmetologist Examiners recommended or mandated by this section. No action taken after January 1, 2010, shall be considered a result of the transfer of authority for the purposes of this section.

(b) On or before June 1, 2009, the Board of Barber and Cosmetologist Examiners must designate to which board each employee will transfer to under paragraph (a), and the board must notify each affected employee of the designation in writing.

Subd. 5. **Exemption from hiring freeze.** Notwithstanding any law, policy, or executive order that restricts the hiring of new employees or institutes a hiring freeze, the Board of Barber Examiners and the Board of Cosmetologist Examiners may hire staff necessary to accomplish their statutory duties. This exemption expires on December 31, 2009.

**EFFECTIVE DATE.** This section is effective July 1, 2009, except that the requirements of subdivision 4, paragraph (b), are effective the day following final enactment.

Sec. 29. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall delete "Board of Barber and Cosmetologist Examiners" and substitute "board" or "Board of Barber Examiners," as appropriate, wherever it appears in Minnesota Statutes, sections 154.001 to 154.26, and Minnesota Rules, chapter 2100.

(b) The revisor of statutes shall delete "Board of Barber and Cosmetologist Examiners" and substitute "board" or "Board of Cosmetologist Examiners," as appropriate, wherever it appears in Minnesota Statutes, sections 154.40 to 154.54, and Minnesota Rules, chapters 2105 and 2110.

(c) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>154.40</u>	<u>155A.21</u>
<u>154.41</u>	<u>155A.22</u>
<u>154.42</u>	<u>155A.23</u>
<u>154.43</u>	<u>155A.24</u>
<u>154.44</u>	<u>155A.25</u>
<u>154.45</u>	<u>155A.26</u>
<u>154.46</u>	<u>155A.27</u>
<u>154.465</u>	<u>155A.28</u>
<u>154.47</u>	<u>155A.29</u>

<u>154.48</u>	<u>155A.30</u>
<u>154.49</u>	<u>155A.31</u>
<u>154.50</u>	<u>155A.32</u>
<u>154.51</u>	<u>155A.33</u>
<u>154.52</u>	<u>155A.34</u>
<u>154.53</u>	<u>155A.35</u>
<u>154.54</u>	<u>155A.36</u>

Sec. 30. **REPEALER.**

Minnesota Statutes 2008, section 176.135, subdivision 1b, is repealed.

**ARTICLE 7**

**IRON RANGE RESOURCES**

Section 1. Minnesota Statutes 2008, section 116J.424, is amended to read:

**116J.424 IRON RANGE RESOURCES AND REHABILITATION BOARD CONTRIBUTION.**

The commissioner of the Iron Range Resources and Rehabilitation Board with approval of the board by at least seven Iron Range Resources and Rehabilitation Board members, shall provide an equal match for any loan or equity investment made for a facility located in the tax relief area defined in section 273.134, paragraph (b), by the Minnesota minerals 21st century fund created by section 116J.423. The match may be in the form of a loan or equity investment, notwithstanding whether the fund makes a loan or equity investment. The state shall not acquire an equity interest because of an equity investment or loan by the board and the board at its sole discretion shall decide what interest it acquires in a project. The commissioner of employment and economic development may require a commitment from the board to make the match prior to disbursing money from the fund.

**Sec. 2. [298.217] IRON RANGE RESOURCES AND REHABILITATION; EARLY SEPARATION INCENTIVE PROGRAM AUTHORIZATION.**

(a) Notwithstanding any law to the contrary, the commissioner of Iron Range resources and rehabilitation, in consultation with the commissioner of management and budget, may offer a targeted early separation incentive program for employees of the commissioner who have attained the age of 60 years or who have received credit for at least 30 years of allowable service under the provisions of chapter 352.

(b) The early separation incentive program may include one or more of the following:

(1) employer-paid postseparation health, medical, and dental insurance until age 65; and

(2) cash incentives that may, but are not required to be, used to purchase additional years of service credit through the Minnesota State Retirement System, to the extent that the purchases are otherwise authorized by law.

(c) The commissioner of Iron Range resources and rehabilitation shall establish eligibility

requirements for employees to receive an incentive.

(d) The commissioner of Iron Range resources and rehabilitation, consistent with the established program provisions under paragraph (b), and with the eligibility requirements under paragraph (c), may designate specific programs or employees as eligible to be offered the incentive program.

(e) Acceptance of the offered incentive must be voluntary on the part of the employee and must be in writing. The incentive may only be offered at the sole discretion of the commissioner of Iron Range resources and rehabilitation.

(f) The cost of the incentive is payable solely by funds made available to the commissioner of Iron Range resources and rehabilitation by law, but only on prior approval of the expenditures by a majority of the Iron Range Resources and Rehabilitation Board.

(g) This section and section 298.218 are repealed June 30, 2011.

### Sec. 3. [298.218] APPLICATION OF OTHER LAWS.

Unilateral implementation of section 298.217 by the commissioner of Iron Range resources and rehabilitation is not an unfair labor practice under chapter 179A.

Sec. 4. Minnesota Statutes 2008, section 298.22, subdivision 2, is amended to read:

Subd. 2. **Iron Range Resources and Rehabilitation Board.** There is hereby created the Iron Range Resources and Rehabilitation Board, consisting of 13 members, five of whom are state senators appointed by the Subcommittee on Committees of the Rules Committee of the senate, and five of whom are representatives, appointed by the speaker of the house. The remaining members shall be appointed one each by the senate majority leader, the speaker of the house, and the governor and must be nonlegislators who reside in a taconite assistance area as defined in section 273.1341. The members shall be appointed in January of every odd-numbered year, except that the initial nonlegislator members shall be appointed by July 1, 1999, and shall serve until January of the next odd-numbered year. Vacancies on the board shall be filled in the same manner as the original members were chosen. At least a majority of the legislative members of the board shall be elected from state senatorial or legislative districts in which over 50 percent of the residents reside within a taconite assistance area as defined in section 273.1341. All expenditures and projects made by the commissioner of Iron Range resources and rehabilitation shall be consistent with the priorities established in subdivision 8 and shall first be submitted to the Iron Range Resources and Rehabilitation Board for approval of expenditures and projects for rehabilitation purposes as provided by this section, and the method, manner, and time of payment of all funds proposed to be disbursed, by a majority of the board of expenditures and projects for rehabilitation purposes as provided by this section, and the method, manner, and time of payment of all funds proposed to be disbursed shall be first approved or disapproved by the board at least seven Iron Range Resources and Rehabilitation Board members. The board shall biennially make its report to the governor and the legislature on or before November 15 of each even-numbered year. The expenses of the board shall be paid by the state from the funds raised pursuant to this section. Members of the board who are legislators may be reimbursed for expenses in the manner provided in sections 3.099, subdivision 1, and 3.101, and may receive per diem payments during the interims between legislative sessions in the manner provided in section 3.099, subdivision 1. Members of the board who are not legislators may receive per diem payments and be reimbursed for expenses at the lowest rate provided for legislative members.

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

Sec. 5. Minnesota Statutes 2008, section 298.22, subdivision 5a, is amended to read:

Subd. 5a. **Forest trust.** The commissioner, upon the affirmative vote ~~of a majority of the members of the board,~~ of at least seven Iron Range Resources and Rehabilitation Board members, may purchase forest lands in the taconite assistance area defined in under section 273.1341 with funds specifically authorized for the purchase. The acquired forest lands must be held in trust for the benefit of the citizens of the taconite assistance area as the Iron Range Miners' Memorial Forest. The forest trust lands shall be managed and developed for recreation and economic development purposes. The commissioner, upon the affirmative vote ~~of a majority of the members of the board,~~ of at least seven Iron Range Resources and Rehabilitation Board members, may sell forest lands purchased under this subdivision if the board finds that the sale advances the purposes of the trust. Proceeds derived from the management or sale of the lands and from the sale of timber or removal of gravel or other minerals from these forest lands shall be deposited into an Iron Range Miners' Memorial Forest account that is established within the state financial accounts. Funds may be expended from the account upon approval ~~of a majority of the members of the board~~ by at least seven Iron Range Resources and Rehabilitation Board members, to purchase, manage, administer, convey interests in, and improve the forest lands. ~~By majority an affirmative vote of the members of the board,~~ of at least seven Iron Range Resources and Rehabilitation Board members, money in the Iron Range Miners' Memorial Forest account may be transferred into the corpus of the Douglas J. Johnson economic protection trust fund established under sections 298.291 to 298.294. The property acquired under the authority granted by this subdivision and income derived from the property or the operation or management of the property are exempt from taxation by the state or its political subdivisions while held by the forest trust.

Sec. 6. Minnesota Statutes 2008, section 298.22, subdivision 6, is amended to read:

Subd. 6. **Private entity participation.** The board may acquire an equity interest in any project for which it provides funding. The commissioner may establish, participate in the management of, and dispose of the assets of charitable foundations, nonprofit limited liability companies, and nonprofit corporations associated with any project for which it provides funding, including specifically, but without limitation, a corporation within the meaning of section 317A.011, subdivision 6.

Sec. 7. Minnesota Statutes 2008, section 298.22, subdivision 7, is amended to read:

Subd. 7. **Project area development authority.** (a) In addition to the other powers granted in this section and other law and notwithstanding any limitations contained in subdivision 5, the commissioner, for purposes of fostering economic development and tourism within the Giants Ridge Recreation Area or the Ironworld Discovery Center area, may spend any money made available to the agency under section 298.28 to acquire real or personal property or interests therein by gift, purchase, or lease and may convey by lease, sale, or other means of conveyance or commitment any or all property interests owned or administered by the commissioner within such areas.

(b) In furtherance of development of the Giants Ridge Recreation Area or the Ironworld Discovery Center area, the commissioner may establish and participate in charitable foundations, nonprofit limited liability companies, and nonprofit corporations, including a corporation within the meaning of section 317A.011, subdivision 6.

(c) The term "Giants Ridge recreation area" refers to an economic development project area established by the commissioner in furtherance of the powers delegated in this section within St. Louis County in the western following portions of the town of White and in the eastern portion of the westerly, adjacent, unorganized township, city of Biwabik:

Township 59 North, Range 15 West, Sections 7, 8, 17-20 and 29-32;

Township 59 North, Range 16 West, Sections 12, 13, 24, 25, and 36;

Township 58 North, Range 16 West, Section 1; and

Township 58 North, Range 15 West, Sections 5 and 6.

(d) ~~The term "Ironworld Discovery Center area" refers to~~ means an economic development and tourism promotion project area established by the commissioner in furtherance of the powers delegated in this section within St. Louis County in the south portion of the town of Balkan.

Sec. 8. Minnesota Statutes 2008, section 298.22, subdivision 8, is amended to read:

Subd. 8. **Spending priority.** In making or approving any expenditures on programs or projects, the commissioner and the board shall give the highest priority to programs and projects that target relief to those areas of the taconite assistance area as defined in section 273.1341, that have the largest percentages of job losses and population losses directly attributable to the economic downturn in the taconite industry since the 1980s. The commissioner and the board shall compare the 1980 population and employment figures with the 2000 population and employment figures, and shall specifically consider the job losses in 2000 and 2001 resulting from the closure of LTV Steel Mining Company, in making or approving expenditures consistent with this subdivision, as well as the areas of residence of persons who suffered job loss for which relief is to be targeted under this subdivision. The commissioner may lease, for a term not exceeding 50 years and upon the terms determined by the commissioner and approved by ~~the board~~ at least seven Iron Range Resources and Rehabilitation Board members, surface and mineral interests owned or acquired by the state of Minnesota acting by and through the office of the commissioner of Iron Range resources and rehabilitation within those portions of the taconite assistance area affected by the closure of the LTV Steel Mining Company facility near Hoyt Lakes. The payments and royalties from these leases must be deposited into the fund established in section 298.292. This subdivision supersedes any other conflicting provisions of law and does not preclude the commissioner and the board from making expenditures for programs and projects in other areas.

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

Sec. 9. Minnesota Statutes 2008, section 298.22, subdivision 10, is amended to read:

Subd. 10. **Sale or privatization of functions.** The commissioner of Iron Range resources and rehabilitation may not sell or privatize the Ironworld Discovery Center or Giants Ridge Golf and Ski Resort without prior approval by ~~a majority vote of the board~~ at least seven Iron Range Resources and Rehabilitation Board members.

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

Sec. 10. Minnesota Statutes 2008, section 298.22, subdivision 11, is amended to read:

Subd. 11. **Budgeting.** The commissioner of Iron Range resources and rehabilitation shall

annually prepare a budget for operational expenditures, programs, and projects, and submit it to the Iron Range Resources and Rehabilitation Board and the governor for approval. After the budget is approved by ~~the board~~ at least seven Iron Range Resources and Rehabilitation Board members and the governor, the commissioner may spend money in accordance with the approved budget.

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

Sec. 11. Minnesota Statutes 2008, section 298.221, is amended to read:

**298.221 RECEIPTS FROM CONTRACTS; APPROPRIATION.**

(a) Except as provided in paragraph (c), all money paid to the state of Minnesota pursuant to the terms of any contract entered into by the state under authority of section 298.22 and any fees which may, in the discretion of the commissioner of Iron Range resources and rehabilitation, be charged in connection with any project pursuant to that section as amended, shall be deposited in the state treasury to the credit of the Iron Range Resources and Rehabilitation Board account in the special revenue fund and are hereby appropriated for the purposes of section 298.22.

(b) Notwithstanding section 16A.013, merchandise may be accepted by the commissioner of the Iron Range Resources and Rehabilitation Board for payment of advertising contracts if the commissioner determines that the merchandise can be used for special event prizes or mementos at facilities operated by the board. Nothing in this paragraph authorizes the commissioner or a member of the board to receive merchandise for personal use.

(c) All fees charged by the commissioner in connection with public use of the state-owned ski and golf facilities at the Giants Ridge Recreation Area and all other revenues derived by the commissioner from the operation or lease of those facilities and from the lease, sale, or other disposition of undeveloped lands at the Giants Ridge Recreation Area must be deposited into an Iron Range Resources and Rehabilitation Board account that is created within the state enterprise fund. All funds deposited in the enterprise fund account are appropriated to the commissioner to be expended, subject to approval ~~of a majority of the board,~~ by at least seven Iron Range Resources and Rehabilitation Board members, as follows:

(1) to pay costs associated with the construction, equipping, operation, repair, or improvement of the Giants Ridge Recreation Area facilities or lands;

(2) to pay principal, interest and associated bond issuance, reserve, and servicing costs associated with the financing of the facilities; and

(3) to pay the costs of any other project authorized under section 298.22.

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

Sec. 12. Minnesota Statutes 2008, section 298.2211, subdivision 3, is amended to read:

Subd. 3. **Project approval.** All projects authorized by this section shall be submitted by the commissioner to the Iron Range Resources and Rehabilitation Board, ~~which shall recommend approval or disapproval or modification of the projects~~ for approval by at least seven Iron Range Resources and Rehabilitation Board members. Prior to the commencement of a project involving the exercise by the commissioner of any authority of sections 469.174 to 469.179, the governing body of each municipality in which any part of the project is located and the county board of any

county containing portions of the project not located in an incorporated area shall by majority vote approve or disapprove the project. Any project, ~~as so~~ approved by ~~the board~~ at least seven Iron Range Resources and Rehabilitation Board members and the applicable governing bodies, if any, together with detailed information concerning the project, its costs, the sources of its funding, and the amount of any bonded indebtedness to be incurred in connection with the project, shall be transmitted to the governor, who shall approve, disapprove, or return the proposal for additional consideration within 30 days of receipt. No project authorized under this section shall be undertaken, and no obligations shall be issued and no tax increments shall be expended for a project authorized under this section until the project has been approved by the governor.

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

Sec. 13. Minnesota Statutes 2008, section 298.2213, subdivision 4, is amended to read:

Subd. 4. **Project approval.** The board and commissioner shall by August 1 each year prepare a list of projects to be funded from the money appropriated in this section with necessary supporting information including descriptions of the projects, plans, and cost estimates. A project must not be approved by the board unless it finds that:

- (1) the project will materially assist, directly or indirectly, the creation of additional long-term employment opportunities;
- (2) the prospective benefits of the expenditure exceed the anticipated costs; and
- (3) in the case of assistance to private enterprise, the project will serve a sound business purpose.

Each project must be approved by ~~a majority of the~~ at least seven Iron Range Resources and Rehabilitation Board members and the commissioner of Iron Range resources and rehabilitation. The list of projects must be submitted to the governor, who shall, by November 15 of each year, approve, disapprove, or return for further consideration, each project. The money for a project may be spent only upon approval of the project by the governor. The board may submit supplemental projects for approval at any time.

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

Sec. 14. Minnesota Statutes 2008, section 298.2214, is amended by adding a subdivision to read:

Subd. 6. **Per diem.** Members of the committee may be reimbursed for expenses in the manner provided in section 298.22, subdivision 2.

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

Sec. 15. Minnesota Statutes 2008, section 298.223, is amended to read:

**298.223 TACONITE AREA ENVIRONMENTAL PROTECTION FUND.**

Subdivision 1. **Creation; purposes.** A fund called the taconite environmental protection fund is created for the purpose of reclaiming, restoring and enhancing those areas of northeast Minnesota located within the taconite assistance area defined in section 273.1341, that are adversely affected by the environmentally damaging operations involved in mining taconite and iron ore and producing iron ore concentrate and for the purpose of promoting the economic development of northeast Minnesota. The taconite environmental protection fund shall be used for the following

purposes:

~~(a)~~ (1) to initiate investigations into matters the Iron Range Resources and Rehabilitation Board determines are in need of study and which will determine the environmental problems requiring remedial action;

~~(b)~~ (2) reclamation, restoration, or reforestation of mine lands not otherwise provided for by state law;

~~(c)~~ (3) local economic development projects but only if those projects are approved by ~~the board~~, at least seven Iron Range Resources and Rehabilitation Board members, and public works, including construction of sewer and water systems located within the taconite assistance area defined in section 273.1341;

~~(d)~~ (4) monitoring of mineral industry related health problems among mining employees;

(5) local public works projects under section 298.227, paragraph (c); and

(6) local public works projects as provided under this clause. The following amounts shall be distributed in 2009 based upon the taxable tonnage of production in 2008:

(i) .4651 cents per ton to the city of Aurora for street repair and renovation;

(ii) .4264 cent per ton to the city of Biwabik for street and utility infrastructure improvements to the south side industrial site;

(iii) .6460 cent per ton to the city of Buhl for street repair;

(iv) 1.0336 cents per ton to the city of Hoyt Lakes for public utility improvements;

(v) 1.1628 cents per ton to the city of Eveleth for water and sewer infrastructure upgrades;

(vi) 1.0336 cents per ton to the city of Gilbert for water and sewer infrastructure upgrades;

(vii) .7752 cent per ton to the city of Mountain Iron for water and sewer infrastructure;

(viii) 1.2920 cents per ton to the city of Virginia for utility upgrades and accessibility modifications for the miners' memorial;

(ix) .6460 cent per ton to the town of White for Highway 135 road upgrades;

(x) 1.9380 cents per ton to the city of Hibbing for public infrastructure projects;

(xi) 1.1628 cents per ton to the city of Chisholm for water and sewer repair;

(xii) .6460 cent per ton to the town of Balkan for community center repairs;

(xiii) .9044 cent per ton to the city of Babbitt for city garage construction;

(xiv) .5168 cent per ton to the city of Cook for replacement of a water tower;

(xv) .5168 cent per ton to the city of Ely for reconstruction of 2<sup>nd</sup> Avenue West;

(xvi) .6460 cent per ton to the city of Tower for water infrastructure upgrades;

- (xvii) .1292 cent per ton to the city of Orr for water infrastructure upgrades;
- (xviii) .1292 cent per ton to the city of Silver Bay for emergency cleanup;
- (xvix) .3230 cent per ton to Lake County for trail construction;
- (xx) .1292 cent per ton to Cook County for construction of tennis courts in Grand Marais;
- (xxi) .3101 cent per ton to the city of Two Harbors for water infrastructure improvements;
- (xxii) .1938 cent per ton for land acquisition for phase one of Cook Airport project;
- (xxiii) 1.0336 cents per ton to the city of Coleraine for water and sewer improvements along Gayley Avenue;
- (xxiv) .3876 cent per ton to the city of Marble for construction of a city administration facility;
- (xxv) .1292 cent per ton to the city of Calumet for repairs at city hall and the community center;
- (xxvi) .6460 cent per ton to the city of Nashwauk for electrical infrastructure upgrades;
- (xxvii) 1.0336 cents per ton to the city of Keewatin for water and sewer upgrades along Depot Street;
- (xxviii) .2584 cent per ton to the city of Aitkin for water, sewer, street, and gutter improvements;
- (xxix) 1.1628 cents per ton to the city of Grand Rapids for water and sewer infrastructure upgrades at Pokegema Golf Course and Park Place;
- (xxx) .1809 cent per ton to the city of Grand Rapids for water and sewer upgrades for 1st Avenue from River Road to 3rd Street SE; and
- (xxxi) .9044 cent per ton to the city of Cohasset for upgrades to the railroad crossing at Highway 2 and County Road 62.

Subd. 2. **Administration.** (a) The taconite area environmental protection fund shall be administered by the commissioner of the Iron Range Resources and Rehabilitation Board. The commissioner shall by September 1 of each year submit to the board a list of projects to be funded from the taconite area environmental protection fund, with such supporting information including description of the projects, plans, and cost estimates as may be necessary.

(b) Each year no less than one-half of the amounts deposited into the taconite environmental protection fund must be used for public works projects, including construction of sewer and water systems, as specified under subdivision 1, ~~paragraph (c)~~ clause (3). The Iron Range Resources and Rehabilitation Board with ~~a majority vote of the members,~~ approval by at least seven Iron Range Resources and Rehabilitation Board members, may waive the requirements of this paragraph.

(c) Upon approval by ~~a majority of the members of the Iron Range Resources and Rehabilitation Board,~~ at least seven Iron Range Resources and Rehabilitation Board members, the list of projects approved under this subdivision shall be submitted to the governor by November 1 of each year. By December 1 of each year, the governor shall approve or disapprove, or return for further consideration, each project. Funds for a project may be expended only upon approval of the project by ~~the board~~ at least seven Iron Range Resources and Rehabilitation Board members, and the

governor. The commissioner may submit supplemental projects to the board and governor for approval at any time.

Subd. 3. **Appropriation.** There is annually appropriated to the commissioner of Iron Range resources and rehabilitation taconite area environmental protection funds necessary to carry out approved projects and programs and the funds necessary for administration of this section. Annual administrative costs, not including detailed engineering expenses for the projects, shall not exceed five percent of the amount annually expended from the fund.

Funds for the purposes of this section are provided by section 298.28, subdivision 11, relating to the taconite area environmental protection fund.

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

Sec. 16. Minnesota Statutes 2008, section 298.227, is amended to read:

**298.227 TACONITE ECONOMIC DEVELOPMENT FUND.**

(a) An amount equal to that distributed pursuant to each taconite producer's taxable production and qualifying sales under section 298.28, subdivision 9a, shall be held by the Iron Range Resources and Rehabilitation Board in a separate taconite economic development fund for each taconite and direct reduced ore producer. Money from the fund for each producer shall be released by the commissioner after review by a joint committee consisting of an equal number of representatives of the salaried employees and the nonsalaried production and maintenance employees of that producer. The District 11 director of the United States Steelworkers of America, on advice of each local employee president, shall select the employee members. In nonorganized operations, the employee committee shall be elected by the nonsalaried production and maintenance employees. The review must be completed no later than six months after the producer presents a proposal for expenditure of the funds to the committee. The funds held pursuant to this section may be released only for workforce development and associated public facility improvement, or for acquisition of plant and stationary mining equipment and facilities for the producer or for research and development in Minnesota on new mining, or taconite, iron, or steel production technology, but only if the producer provides a matching expenditure to be used for the same purpose of at least 50 percent of the distribution based on 14.7 cents per ton beginning with distributions in 2002. Effective for proposals for expenditures of money from the fund beginning May 26, 2007, the commissioner may not release the funds before the next scheduled meeting of the board. If the board rejects a proposed expenditure is not approved by at least seven Iron Range Resources and Rehabilitation Board members, the funds must be deposited in the Taconite Environmental Protection Fund under sections 298.222 to 298.225. If a producer uses money which has been released from the fund prior to May 26, 2007 to procure haulage trucks, mobile equipment, or mining shovels, and the producer removes the piece of equipment from the taconite tax relief area defined in section 273.134 within ten years from the date of receipt of the money from the fund, a portion of the money granted from the fund must be repaid to the taconite economic development fund. The portion of the money to be repaid is 100 percent of the grant if the equipment is removed from the taconite tax relief area within 12 months after receipt of the money from the fund, declining by ten percent for each of the subsequent nine years during which the equipment remains within the taconite tax relief area. If a taconite production facility is sold after operations at the facility had ceased, any money remaining in the fund for the former producer may be released to the purchaser of the facility on the terms otherwise applicable to the former producer under this section. If a producer fails to provide

matching funds for a proposed expenditure within six months after the commissioner approves release of the funds, the funds are available for release to another producer in proportion to the distribution provided and under the conditions of this section. Any portion of the fund which is not released by the commissioner within one year of its deposit in the fund shall be divided between the taconite environmental protection fund created in section 298.223 and the Douglas J. Johnson economic protection trust fund created in section 298.292 for placement in their respective special accounts. Two-thirds of the unreleased funds shall be distributed to the taconite environmental protection fund and one-third to the Douglas J. Johnson economic protection trust fund.

(b)(i) Notwithstanding the requirements of paragraph (a), setting the amount of distributions and the review process, an amount equal to ten cents per taxable ton of production in 2007, for distribution in 2008 only, that would otherwise be distributed under paragraph (a), may be used for a loan for the cost of construction of a biomass energy facility. This amount must be deducted from the distribution under paragraph (a) for which a matching expenditure by the producer is not required. The granting of the loan is subject to approval by the Iron Range Resources and Rehabilitation Board at least seven Iron Range Resources and Rehabilitation Board members; interest must be payable on the loan at the rate prescribed in section 298.2213, subdivision 3. (ii) Repayments of the loan and interest must be deposited in the northeast Minnesota economic development taconite environment protection fund established in section 298.2213 under sections 298.222 to 298.225. If a loan is not made under this paragraph by July 1, 2009, the amount that had been made available for the loan under this paragraph must be transferred to the northeast Minnesota economic development taconite environment protection fund under sections 298.222 to 298.225. (iii) Money distributed in 2008 to the fund established under this section that exceeds ten cents per ton is available to qualifying producers under paragraph (a) on a pro rata basis.

If 2008 H.F. No. 1812 is enacted and includes a provision that amends this section in a manner that is different from the amendment in this section, the amendment in this section supersedes the amendment in 2008 H.F. No. 1812, notwithstanding section 645.26.

(c) Repayment or transfer of money to the taconite environmental protection fund under paragraph (b), item (ii), must be allocated by the Iron Range Resources and Rehabilitation Board for public works projects in house legislative districts in the same proportion as taxable tonnage of production in 2007 in each house legislative district, for distribution in 2008, bears to total taxable tonnage of production in 2007, for distribution in 2008. Notwithstanding any other law to the contrary, expenditures under this paragraph do not require approval by the governor. For purposes of this paragraph, "house legislative districts" means the legislative districts in existence on the effective date of this section.

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

Sec. 17. Minnesota Statutes 2008, section 298.28, subdivision 9d, is amended to read:

Subd. 9d. **Iron Range higher education account.** Five cents per taxable ton must be allocated to the Iron Range Resources and Rehabilitation Board to be deposited in an Iron Range higher education account that is hereby created, to be used for higher education programs conducted at educational institutions in the taconite assistance area defined in section 273.1341. The Iron Range Higher Education committee under section 298.2214, and the Iron Range Resources and Rehabilitation Board by an affirmative vote of at least seven Iron Range Resources and Rehabilitation Board members, must approve all expenditures from the account.

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

Sec. 18. Minnesota Statutes 2008, section 298.292, subdivision 2, is amended to read:

Subd. 2. **Use of money.** Money in the Douglas J. Johnson economic protection trust fund may be used for the following purposes:

(1) to provide loans, loan guarantees, interest buy-downs and other forms of participation with private sources of financing, but a loan to a private enterprise shall be for a principal amount not to exceed one-half of the cost of the project for which financing is sought, and the rate of interest on a loan to a private enterprise shall be no less than the lesser of eight percent or an interest rate three percentage points less than a full faith and credit obligation of the United States government of comparable maturity, at the time that the loan is approved;

(2) to fund reserve accounts established to secure the payment when due of the principal of and interest on bonds issued pursuant to section 298.2211;

(3) to pay in periodic payments or in a lump-sum payment any or all of the interest on bonds issued pursuant to chapter 474 for the purpose of constructing, converting, or retrofitting heating facilities in connection with district heating systems or systems utilizing alternative energy sources;

(4) to invest in a venture capital fund or enterprise that will provide capital to other entities that are engaging in, or that will engage in, projects or programs that have the purposes set forth in subdivision 1. No investments may be made in a venture capital fund or enterprise unless at least two other unrelated investors make investments of at least \$500,000 in the venture capital fund or enterprise, and the investment by the Douglas J. Johnson economic protection trust fund may not exceed the amount of the largest investment by an unrelated investor in the venture capital fund or enterprise. For purposes of this subdivision, an "unrelated investor" is a person or entity that is not related to the entity in which the investment is made or to any individual who owns more than 40 percent of the value of the entity, in any of the following relationships: spouse, parent, child, sibling, employee, or owner of an interest in the entity that exceeds ten percent of the value of all interests in it. For purposes of determining the limitations under this clause, the amount of investments made by an investor other than the Douglas J. Johnson economic protection trust fund is the sum of all investments made in the venture capital fund or enterprise during the period beginning one year before the date of the investment by the Douglas J. Johnson economic protection trust fund; and

(5) to purchase forest land in the taconite assistance area defined in section 273.1341 to be held and managed as a public trust for the benefit of the area for the purposes authorized in section 298.22, subdivision 5a. Property purchased under this section may be sold by the commissioner upon approval ~~by a majority vote of the board~~ by at least seven Iron Range Resources and Rehabilitation Board members. The net proceeds must be deposited in the trust fund for the purposes and uses of this section.

Money from the trust fund shall be expended only in or for the benefit of the taconite assistance area defined in section 273.1341.

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

Sec. 19. **[298.2931] TRANSFER OF FUNDS.**

The amount deposited in the Douglas J. Johnson Economic Protection Trust Fund in 2009 in

repayment of a loan for the Mesabi Nugget, LLC project at Silver Bay shall be transferred to the taconite environmental protection fund and deposited in a special account to be used as provided under section 298.223, subdivision 1, clause (6).

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

Sec. 20. Minnesota Statutes 2008, section 298.294, is amended to read:

**298.294 INVESTMENT OF FUND.**

(a) The trust fund established by section 298.292 shall be invested pursuant to law by the State Board of Investment and the net interest, dividends, and other earnings arising from the investments shall be transferred, except as provided in paragraph (b), on the first day of each month to the trust and shall be included and become part of the trust fund. The amounts transferred, including the interest, dividends, and other earnings earned prior to July 13, 1982, together with the additional amount of \$10,000,000 for fiscal year 1983, which is appropriated April 21, 1983, are appropriated from the trust fund to the commissioner of Iron Range resources and rehabilitation for deposit in a separate account for expenditure for the purposes set forth in section 298.292. Amounts appropriated pursuant to this section shall not cancel but shall remain available unless expended.

(b) For fiscal years 2010 and 2011 only, \$1,000,000 of the net interest, dividends, and other earnings under paragraph (a) shall be transferred to a special account. Funds in the special account are available for loans or grants to businesses, with priority given to businesses with 25 or fewer employees. Funds may be used for wage subsidies of up to \$5 per hour or other activities that will create additional jobs in the taconite assistance area under section 273.1341. Expenditures from the special account must be approved by at least seven Iron Range Resources and Rehabilitation Board members.

(c) To qualify for a grant or loan, a business must be currently operating and have been operating for one year immediately prior to its application for a loan or grant, and its corporate headquarters must be located in the taconite assistance area.

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

Sec. 21. Minnesota Statutes 2008, section 298.296, subdivision 2, is amended to read:

Subd. 2. **Expenditure of funds.** (a) Before January 1, 2028, funds may be expended on projects and for administration of the trust fund only from the net interest, earnings, and dividends arising from the investment of the trust at any time, including net interest, earnings, and dividends that have arisen prior to July 13, 1982, plus \$10,000,000 made available for use in fiscal year 1983, except that any amount required to be paid out of the trust fund to provide the property tax relief specified in Laws 1977, chapter 423, article X, section 4, and to make school bond payments and payments to recipients of taconite production tax proceeds pursuant to section 298.225, may be taken from the corpus of the trust.

(b) Additionally, upon recommendation by the board, up to \$13,000,000 from the corpus of the trust may be made available for use as provided in subdivision 4, and up to \$10,000,000 from the corpus of the trust may be made available for use as provided in section 298.2961.

(c) Additionally, an amount equal to 20 percent of the value of the corpus of the trust on May 18, 2002, not including the funds authorized in paragraph (b), plus the amounts made available under

section 298.28, subdivision 4, and Laws 2002, chapter 377, article 8, section 17, may be expended on projects. Funds may be expended for projects under this paragraph only if the project:

- (1) is for the purposes established under section 298.292, subdivision 1, clause (1) or (2); and
- (2) is approved by the board upon an affirmative vote of at least ten of its members.

No money made available under this paragraph or paragraph (d) can be used for administrative or operating expenses of the Iron Range Resources and Rehabilitation Board or expenses relating to any facilities owned or operated by the board on May 18, 2002.

(d) Upon recommendation by a unanimous vote of all members of the board, amounts in addition to those authorized under paragraphs (a), (b), and (c) may be expended on projects described in section 298.292, subdivision 1.

(e) Annual administrative costs, not including detailed engineering expenses for the projects, shall not exceed five percent of the net interest, dividends, and earnings arising from the trust in the preceding fiscal year.

(f) Principal and interest received in repayment of loans made pursuant to this section, and earnings on other investments made under section 298.292, subdivision 2, clause (4), shall be deposited in the state treasury and credited to the trust. These receipts are appropriated to the board for the purposes of sections 298.291 to 298.298.

(g) Additionally, notwithstanding section 298.293, upon the affirmative vote of a majority of the members of the board, of at least seven Iron Range Resources and Rehabilitation Board members, money from the corpus of the trust may be expended to purchase forest lands within the taconite assistance area as provided in sections 298.22, subdivision 5a, and 298.292, subdivision 2, clause (5).

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

Sec. 22. Minnesota Statutes 2008, section 298.2961, is amended to read:

**298.2961 PRODUCER GRANTS.**

Subdivision 1. **Appropriation.** (a) \$10,000,000 is appropriated from the Douglas J. Johnson economic protection trust fund to a special account in the taconite area environmental protection fund for grants to producers on a project-by-project basis as provided in this section.

(b) The proceeds of the tax designated under section 298.28, subdivision 9b, are appropriated for grants to producers on a project-by-project basis as provided in this section.

Subd. 2. **Projects; approval.** (a) Projects funded must be for:

- (1) environmentally unique reclamation projects; or
- (2) pit or plant repairs, expansions, or modernizations other than for a value added iron products plant.

(b) To be proposed by the board, a project must be approved by at least eight Iron Range Resources and Rehabilitation Board members. The money for a project may be spent only upon approval of the project by the governor. The board may submit supplemental projects for approval

at any time.

(c) The board may require that it receive an equity percentage in any project to which it contributes under this section.

Subd. 3. **Redistribution.** (a) If a taconite production facility is sold after operations at the facility had ceased, any money remaining in the taconite environmental fund for the former producer may be released to the purchaser of the facility on the terms otherwise applicable to the former producer under this section.

(b) Any portion of the taconite environmental fund that is not released by the commissioner within three years of its deposit in the taconite environmental fund shall be divided between the taconite environmental protection fund created in section 298.223 and the Douglas J. Johnson economic protection trust fund created in section 298.292 for placement in their respective special accounts. Two-thirds of the unreleased funds must be distributed to the taconite environmental protection fund and one-third to the Douglas J. Johnson economic protection trust fund.

Subd. 4. **Grant and loan fund.** (a) A fund is established to receive distributions under section 298.28, subdivision 9b, and to make grants or loans as provided in this subdivision. Any grant or loan made under this subdivision must be approved by ~~a majority of the members of the Iron Range Resources and Rehabilitation Board,~~ at least seven Iron Range Resources and Rehabilitation Board members, established under section 298.22.

(b) Distributions received in calendar year 2005 are allocated to the city of Virginia for improvements and repairs to the city's steam heating system.

(c) Distributions received in calendar year 2006 are allocated to a project of the public utilities commissions of the cities of Hibbing and Virginia to convert their electrical generating plants to the use of biomass products, such as wood.

(d) Distributions received in calendar year 2007 must be paid to the city of Tower to be used for the East Two Rivers project in or near the city of Tower.

(e) For distributions received in 2008, the first \$2,000,000 of the 2008 distribution must be paid to St. Louis County for deposit in its county road and bridge fund to be used for relocation of St. Louis County Road 715, commonly referred to as Pike River Road. The remainder of the 2008 distribution must be paid to St. Louis County for a grant to the city of Virginia for connecting sewer and water lines to the St. Louis County maintenance garage on Highway 135, further extending the lines to interconnect with the city of Gilbert's sewer and water lines. All distributions received in 2009 and subsequent years are allocated for projects under section 298.223, subdivision 1.

Subd. 5. **Public works and local economic development fund.** For distributions in 2007 only, a special fund is established to receive 38.4 cents per ton that otherwise would be allocated under section 298.28, subdivision 6. The following amounts are allocated to St. Louis County acting as the fiscal agent for the recipients for the specific purposes:

(1) 13.4 cents per ton for the Central Iron Range Sanitary Sewer District for construction of a combined wastewater facility and notwithstanding section 298.28, subdivision 11, paragraph (a), or any other law, interest accrued on this money while held by St. Louis County shall also be distributed to the recipient;

(2) six cents per ton to the city of Eveleth to redesign and design and construct improvements to renovate its water treatment facility;

(3) one cent per ton for the East Range Joint Powers Board to acquire land for and to design a central wastewater collection and treatment system;

(4) 0.5 cents per ton to the city of Hoyt Lakes to repair Leeds Road;

(5) 0.7 cents per ton to the city of Virginia to extend Eighth Street South;

(6) 0.7 cents per ton to the city of Mountain Iron to repair Hoover Road;

(7) 0.9 cents per ton to the city of Gilbert for alley repairs between Michigan and Indiana Avenues and for repayment of a loan to the Minnesota Department of Employment and Economic Development;

(8) 0.4 cents per ton to the city of Keewatin for a new city well;

(9) 0.3 cents per ton to the city of Grand Rapids for planning for a fire and hazardous materials center;

(10) 0.9 cents per ton to Aitkin County Growth for an economic development project for peat harvesting;

(11) 0.4 cents per ton to the city of Nashwauk to develop a comprehensive city plan;

(12) 0.4 cents per ton to the city of Taconite for development of a city comprehensive plan;

(13) 0.3 cents per ton to the city of Marble for water and sewer infrastructure;

(14) 0.8 cents per ton to Aitkin County for improvements to the Long Lake Environmental Learning Center;

(15) 0.3 cents per ton to the city of Coleraine for the Coleraine Technology Center;

(16) 0.5 cents per ton to the Economic Development Authority of the city of Grand Rapids for planning for the North Central Research and Technology Laboratory;

(17) 0.6 cents per ton to the city of Bovey for sewer and water extension;

(18) 0.3 cents per ton to the city of Calumet for infrastructure improvements; and

(19) ten cents per ton to the commissioner of Iron Range Resources and Rehabilitation for deposit in a Highway 1 Corridor Account established by the commissioner, to be distributed by the commissioner to any of the cities of Babbitt, Cook, Ely, or Tower, for economic development projects approved by ~~the Iron Range Resources and Rehabilitation Board~~ at least seven Iron Range Resources and Rehabilitation Board members; notwithstanding section 298.28, subdivision 11, paragraph (a), or any other law, interest accrued on this money while held by St. Louis County or the commissioner shall also be distributed to the recipient.

Subd. 6. **Renewable energy.** For distributions in 2009 only, a special account is established in the taconite environmental protection fund to receive 15.5 cents per ton that otherwise would be allocated under section 298.28, subdivision 6. The funds are available for cooperative projects between the Iron Range Resources and Rehabilitation Board and local governments for renewable

energy initiatives.

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

## ARTICLE 8

### HOUSING FINANCE AGENCY

Section 1. Minnesota Statutes 2008, section 327C.03, is amended by adding a subdivision to read:

**Subd. 6. Payment to the Minnesota manufactured home relocation trust fund.** In the event a park owner has been assessed under section 327C.095, subdivision 12, paragraph (c), the park owner may collect the \$12 annual payment required by section 327C.095, subdivision 12, for participation in the relocation trust fund, as a lump sum or, along with monthly lot rent, a fee of no more than \$1 per month to cover the cost of participating in the relocation trust fund. The \$1 fee must be separately itemized and clearly labeled "Minnesota manufactured home relocation trust fund."

Sec. 2. Minnesota Statutes 2008, section 327C.095, subdivision 12, is amended to read:

**Subd. 12. Payment to the Minnesota manufactured home relocation trust fund.** (a) If a manufactured home owner is required to move due to the conversion of all or a portion of a manufactured home park to another use, the closure of a park, or cessation of use of the land as a manufactured home park, the manufactured park owner shall, upon the change in use, pay to the commissioner of finance for deposit in the Minnesota manufactured home relocation trust fund under section 462A.35, the lesser amount of the actual costs of moving or purchasing the manufactured home approved by the neutral third party and paid by the Minnesota Housing Finance Agency under subdivision 13, paragraph (a) or (e), or \$3,250 for each single section manufactured home, and \$6,000 for each multisection manufactured home, for which a manufactured home owner has made application for payment of relocation costs under subdivision 13, paragraph (c). The manufactured home park owner shall make payments required under this section to the Minnesota manufactured home relocation trust fund within 60 days of receipt of invoice from the neutral third party.

(b) A manufactured home park owner is not required to make the payment prescribed under paragraph (a), nor is a manufactured home owner entitled to compensation under subdivision 13, paragraph (a) or (e), if:

(1) the manufactured home park owner relocates the manufactured home owner to another space in the manufactured home park or to another manufactured home park at the park owner's expense;

(2) the manufactured home owner is vacating the premises and has informed the manufactured home park owner or manager of this prior to the mailing date of the closure statement under subdivision 1;

(3) a manufactured home owner has abandoned the manufactured home, or the manufactured home owner is not current on the monthly lot rental, personal property taxes, ~~or has failed to pay the annual \$12 payments to the Minnesota manufactured home relocation trust fund when due;~~

(4) the manufactured home owner has a pending eviction action for nonpayment of lot rental amount under section 327C.09, which was filed against the manufactured home owner prior to the

mailing date of the closure statement under subdivision 1, and the writ of recovery has been ordered by the district court;

(5) the conversion of all or a portion of a manufactured home park to another use, the closure of a park, or cessation of use of the land as a manufactured home park is the result of a taking or exercise of the power of eminent domain by a governmental entity or public utility; or

(6) the owner of the manufactured home is not a resident of the manufactured home park, as defined in section 327C.01, subdivision 9, or the owner of the manufactured home is a resident, but came to reside in the manufactured home park after the mailing date of the closure statement under subdivision 1.

~~(c) Owners of manufactured homes who rent lots in a manufactured home park shall make annual payments to the park owner, to be deposited in the Minnesota manufactured home relocation trust fund under section 462A.35, in the amount of \$12 per year, per manufactured home, payable on August 15 of each year. On or before July 15 of each year, the commissioner of finance shall prepare and post on the department's Web site a generic invoice and cover letter explaining the purpose of the Minnesota manufactured home relocation trust fund, the obligation of each manufactured home owner to make an annual \$12 payment into the fund, the due date, and the need to pay to the park owner for collection, and a warning, in 14 point font, that if the annual payments are not made when due, the manufactured home owner will not be eligible for compensation from the fund if the manufactured home park closes. The park owner shall receive, record, and commingle the payments and forward the payments to the commissioner of finance by September 15 of each year, with a summary by the park owner, certifying the name, address, and payment amount of each remitter, and noting the names and address of manufactured home owners who did not pay the \$12 annual payment, sent to both the commissioner of finance and the commissioner of the Minnesota Housing Finance Agency. The commissioner of finance shall deposit the payments in the Minnesota manufactured home relocation trust fund. The commissioner of finance shall annually assess each manufactured home park owner by mail the total amount of \$12 for each licensed lot in their park, payable on or before September 15 of each year. The commissioner of finance shall deposit the payments in the Minnesota manufactured home relocation trust fund. On or before July 15 of each year, the commissioner of finance shall prepare and distribute to park owners a letter explaining the collection, an invoice for all licensed lots, and a sample form for the park owners to collect information on which park residents have been accounted for. The park owner may recoup the cost of the \$12 assessment as a lump sum or as a monthly fee of no more than \$1 collected from park residents together with monthly lot rent as provided in section 327C.03, subdivision 6. Park owners may adjust payment for lots in their park that are vacant or otherwise not eligible for contribution to the trust fund under section 327C.095, subdivision 12, paragraph (b), and deduct from the assessment, accordingly.~~

~~(d) This subdivision and subdivision 13, paragraph (c), clause (5), are enforceable by the neutral third party, on behalf of the Minnesota Housing Finance Agency, or by action in a court of appropriate jurisdiction. The court may award a prevailing party reasonable attorney fees, court costs, and disbursements.~~

Sec. 3. Minnesota Statutes 2008, section 327C.095, subdivision 13, is amended to read:

Subd. 13. **Change in use, relocation expenses; payments by park owner.** (a) If a manufactured home owner is required to relocate due to the conversion of all or a portion of a manufactured

home park to another use, the closure of a manufactured home park, or cessation of use of the land as a manufactured home park under subdivision 1, and the manufactured home owner complies with the requirements of this section, the manufactured home owner is entitled to payment from the Minnesota manufactured home relocation trust fund equal to the manufactured home owner's actual relocation costs for relocating the manufactured home to a new location within a 25-mile radius of the park that is being closed, up to a maximum of \$4,000 for a single-section and \$8,000 for a multisection manufactured home. The actual relocation costs must include the reasonable cost of taking down, moving, and setting up the manufactured home, including equipment rental, utility connection and disconnection charges, minor repairs, modifications necessary for transportation of the home, necessary moving permits and insurance, moving costs for any appurtenances, which meet applicable local, state, and federal building and construction codes.

(b) A manufactured home owner is not entitled to compensation under paragraph (a) if the manufactured home park owner is not required to make a payment to the Minnesota manufactured home relocation trust fund under subdivision 12, paragraph (b).

(c) Except as provided in paragraph (e), in order to obtain payment from the Minnesota manufactured home relocation trust fund, the manufactured home owner shall submit to the neutral third party and the Minnesota Housing Finance Agency, with a copy to the park owner, an application for payment, which includes:

- (1) a copy of the closure statement under subdivision 1;
- (2) a copy of the contract with a moving or towing contractor, which includes the relocation costs for relocating the manufactured home;
- (3) a statement with supporting materials of any additional relocation costs as outlined in subdivision 1;
- (4) a statement certifying that none of the exceptions to receipt of compensation under subdivision 12, paragraph (b), apply to the manufactured home owner;
- (5) a statement from the manufactured park owner that the lot rental is current and that the annual \$12 payments to the Minnesota manufactured home relocation trust fund have been paid when due; and
- (6) a statement from the county where the manufactured home is located certifying that personal property taxes for the manufactured home are paid through the end of that year.

(d) If the neutral third party has acted reasonably and does not approve or deny payment within 45 days after receipt of the information set forth in paragraph (c), the payment is deemed approved. Upon approval and request by the neutral third party, the Minnesota Housing Finance Agency shall issue two checks in equal amount for 50 percent of the contract price payable to the mover and towing contractor for relocating the manufactured home in the amount of the actual relocation cost, plus a check to the home owner for additional certified costs associated with third-party vendors, that were necessary in relocating the manufactured home. The moving or towing contractor shall receive 50 percent upon execution of the contract and 50 percent upon completion of the relocation and approval by the manufactured home owner. The moving or towing contractor may not apply the funds to any other purpose other than relocation of the manufactured home as provided in the contract. A copy of the approval must be forwarded by the neutral third party to the park owner with

an invoice for payment of the amount specified in subdivision 12, paragraph (a).

(e) In lieu of collecting a relocation payment from the Minnesota manufactured home relocation trust fund under paragraph (a), the manufactured home owner may collect an amount from the fund after reasonable efforts to relocate the manufactured home have failed due to the age or condition of the manufactured home, or because there are no manufactured home parks willing or able to accept the manufactured home within a 25-mile radius. A manufactured home owner may tender title of the manufactured home in the manufactured home park to the manufactured home park owner, and collect an amount to be determined by an independent appraisal. The appraiser must be agreed to by both the manufactured home park owner and the manufactured home owner. The amount that may be reimbursed under the fund is a maximum of \$5,000 for a single section and \$9,000 for a multisection manufactured home. The manufactured home owner shall deliver to the manufactured home park owner the current certificate of title to the manufactured home duly endorsed by the owner of record, and valid releases of all liens shown on the certificate of title, and a statement from the county where the manufactured home is located evidencing that the personal property taxes have been paid. The manufactured home owner's application for funds under this paragraph must include a document certifying that the manufactured home cannot be relocated, that the lot rental is current, that the annual \$12 payments to the Minnesota manufactured home relocation trust fund have been paid when due, that the manufactured home owner has chosen to tender title under this section, and that the park owner agrees to make a payment to the commissioner of finance in the amount established in subdivision 12, paragraph (a), less any documented costs submitted to the neutral third party, required for demolition and removal of the home, and any debris or refuse left on the lot, not to exceed \$1,000. The manufactured home owner must also provide a copy of the certificate of title endorsed by the owner of record, and certify to the neutral third party, with a copy to the park owner, that none of the exceptions to receipt of compensation under subdivision 12, paragraph (b), clauses (1) to (6), apply to the manufactured home owner, and that the home owner will vacate the home within 60 days after receipt of payment or the date of park closure, whichever is earlier, provided that the monthly lot rent is kept current.

(f) The Minnesota Housing Finance Agency must make a determination of the amount of payment a manufactured home owner would have been entitled to under a local ordinance in effect on May 26, 2007. Notwithstanding paragraph (a), the manufactured home owner's compensation for relocation costs from the fund under section 462A.35, is the greater of the amount provided under this subdivision, or the amount under the local ordinance in effect on May 26, 2007, that is applicable to the manufactured home owner. Nothing in this paragraph is intended to increase the liability of the park owner.

(g) Neither the neutral third party nor the Minnesota Housing Finance Agency shall be liable to any person for recovery if the funds in the Minnesota manufactured home relocation trust fund are insufficient to pay the amounts claimed. The Minnesota Housing Finance Agency shall keep a record of the time and date of its approval of payment to a claimant.

(h) The agency shall report to the chairs of the senate Finance Committee and house of representatives Ways and Means Committee by January 15 of each year on the Minnesota manufactured home relocation trust fund, including the account balance, payments to claimants, the amount of any advances to the fund, ~~and~~ the amount of any insufficiencies encountered during the previous calendar year, and any administrative charges or expenses deducted from the trust fund balance. If sufficient funds become available, the Minnesota Housing Finance Agency shall

pay the manufactured home owner whose unpaid claim is the earliest by time and date of approval.

Sec. 4. Minnesota Statutes 2008, section 462A.05, subdivision 14, is amended to read:

Subd. 14. **Rehabilitation loans.** It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participation in the making, of eligible loans for rehabilitation, with terms and conditions as the agency deems advisable, to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by such persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and may be made with security, or may be unsecured, as the agency deems advisable. The loans may be in addition to or in combination with long-term eligible mortgage loans under subdivision 3. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if refinancing is determined by the agency to be necessary to permit the owner to meet the owner's housing cost without expending an unreasonable portion of the owner's income thereon. No loan for rehabilitation shall be made unless the agency determines that the loan will be used primarily to make the housing more desirable to live in, to increase the market value of the housing, for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering the provisions of this chapter, establish codes and standards. Except for accessibility improvements under this subdivision and subdivisions 14a and 24, clause (1), no secured loan for rehabilitation of any owner-occupied property shall be made in an amount which, with all other existing indebtedness secured by the property, would exceed 110 percent of its market value, as determined by the agency. No loan under this subdivision for the rehabilitation of owner-occupied housing shall be denied solely because the loan will not be used for placing the owner-occupied residential housing in full compliance with all state, county, or municipal building, housing maintenance, fire, health, or similar codes and standards applicable to housing. Rehabilitation loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and conditions. Accessibility rehabilitation loans authorized under this subdivision may be made to eligible persons and families without limitations relating to the maximum incomes of the borrowers if:

(1) the borrower or a member of the borrower's family requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility for persons with developmental disabilities;

(2) home care is appropriate; and

(3) the improvement will enable the borrower or a member of the borrower's family to reside in the housing.

The agency may waive any requirement that the housing units in a residential housing development be rented to persons of low and moderate income if the development consists of four or less dwelling units, one of which is occupied by the owner.

Sec. 5. Minnesota Statutes 2008, section 462A.05, subdivision 14a, is amended to read:

Subd. 14a. **Rehabilitation loans; existing owner occupied residential housing.** It may make loans to persons and families of low and moderate income to rehabilitate or to assist in rehabilitating

existing residential housing owned and occupied by those persons or families. No loan shall be made unless the agency determines that the loan will be used primarily for rehabilitation work necessary for health or safety, essential accessibility improvements, or to improve the energy efficiency of the dwelling. No loan for rehabilitation of owner occupied residential housing shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing. The amount of any loan shall not exceed the lesser of (a) a maximum loan amount determined under rules adopted by the agency not to exceed ~~\$20,000~~ \$27,000, or (b) the actual cost of the work performed, or (c) that portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by the person or family without the expenditure of an unreasonable portion of the income of the person or family. Loans made in whole or in part with federal funds may exceed the maximum loan amount to the extent necessary to comply with federal lead abatement requirements prescribed by the funding source. In making loans, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion of the loan will be repaid and shall determine the appropriate security for the repayment of the loan. Loans pursuant to this subdivision may be made with or without interest or periodic payments.

Sec. 6. Minnesota Statutes 2008, section 469.201, subdivision 2, is amended to read:

Subd. 2. **City.** "City" means a city of the first class as defined in section 410.01 ~~and~~, a city of the second class that is designated as an economically depressed area by the United States Department of Commerce, and a statutory or home rule charter city, town, or township. For each city, a port authority, housing and redevelopment authority, or other agency or instrumentality, the jurisdiction of which is the territory of the city, is included within the meaning of city.

Sec. 7. Minnesota Statutes 2008, section 469.201, subdivision 4, is amended to read:

Subd. 4. **City matching money.** (a) "City matching money" means the money of a city specified in a targeted revitalization program. The sources of city matching money may include:

(1) money from the general fund or a special fund of a city used to implement a targeted revitalization program;

(2) money paid or repaid to a city from the proceeds of a grant that a city has received from the federal government, a profit or nonprofit corporation, or another entity or individual, that is to be used to implement a targeted revitalization program;

(3) tax increments received by a city under sections 469.174 to 469.179 or other law, if eligible, to be spent in the targeted ~~neighborhood~~ community;

(4) the greater of the fair market value or the cost to the city of acquiring land, buildings, equipment, or other real or personal property that a city contributes, grants, leases, or loans to a profit or nonprofit corporation or other entity or individual, in connection with the implementation of a targeted revitalization program;

(5) city money to be used to acquire, install, reinstall, repair, or improve the infrastructure facilities of a targeted ~~neighborhood~~ community;

(6) money contributed by a city to pay issuance costs, fund bond reserves, or to otherwise provide financial support for revenue bonds or obligations issued by a city for a project or program related

to the implementation of a targeted revitalization program;

(7) money derived from fees received by a city in connection with its community development activities that are to be used in implementing a targeted revitalization program;

(8) money derived from the apportionment to the city under section 162.14 or by special law, and expended in a targeted ~~neighborhood~~ community for an activity related to the targeted revitalization program;

(9) administrative expenses of the city that are incurred in connection with the planning, implementation, or reporting requirements of sections 469.201 to 469.207.

(b) City matching money does not include:

(1) city money used to provide a service or to exercise a function that is ordinarily provided throughout the city, unless an increased level of the service or function is to be provided in a targeted ~~neighborhood~~ community in accordance with a targeted revitalization program;

(2) the proceeds of bonds issued by the city under chapter 462C or 469 and payable solely from repayments made by one or more nongovernmental persons in consideration for the financing provided by the bonds; or

(3) money given by the state to fund any part of the targeted revitalization program.

Sec. 8. Minnesota Statutes 2008, section 469.201, subdivision 6, is amended to read:

Subd. 6. **Housing activities.** "Housing activities" include any work or undertaking to provide housing and related services and amenities primarily for persons and families of low or moderate income. This work or undertaking may include the planning of buildings and improvements; the acquisition of real property, which may be needed immediately to address vacancies, foreclosures, and preservation of housing now or in the future for housing purposes and the; ~~demolition of any existing improvements; activities to address lead abatement, energy efficiencies, or other activities related to the health of a building;~~ and the construction, reconstruction, alteration, and repair of new and existing buildings. Housing activities also include the provision of a housing rehabilitation and energy improvement loan and grant program with respect to any residential property located within the targeted ~~neighborhood~~ community, the cost of relocation relating to acquiring property for housing activities, and programs authorized by chapter 462C.

Sec. 9. Minnesota Statutes 2008, section 469.201, subdivision 7, is amended to read:

Subd. 7. **Lost unit.** "Lost unit" means a rental housing unit that has been vacant for more than six months or has been condemned for code violations, that is lost as a result of revitalization activities because it is demolished, converted to an owner-occupied unit that is not a cooperative, or converted to a nonresidential use, or because the gross rent to be charged exceeds 125 percent of the gross rent charged for the unit six months before the start of rehabilitation.

Sec. 10. Minnesota Statutes 2008, section 469.201, subdivision 10, is amended to read:

Subd. 10. **Targeted ~~neighborhood~~ community.** "Targeted ~~neighborhood~~ community" means an area including one or more census tracts, as determined and measured by the Bureau of Census of the United States Department of Commerce, that a city council determines in a resolution adopted under section 469.202, subdivision 1, meets the criteria of section 469.202, subdivision 2, and any

additional area designated under section 469.202, subdivision 3.

Sec. 11. Minnesota Statutes 2008, section 469.201, subdivision 11, is amended to read:

Subd. 11. **Targeted neighborhood community money.** "Targeted ~~neighborhood~~ community money" means the money designated in the targeted revitalization program to be used to implement the targeted revitalization program.

Sec. 12. Minnesota Statutes 2008, section 469.201, subdivision 12, is amended to read:

Subd. 12. **Targeted ~~neighborhood~~ community revitalization and financing program.** "Targeted ~~neighborhood~~ community revitalization and financing program," "revitalization program," or "program" means the targeted ~~neighborhood~~ community revitalization and financing program adopted in accordance with section 469.203.

Sec. 13. Minnesota Statutes 2008, section 469.202, is amended to read:

#### **469.202 DESIGNATION OF TARGETED NEIGHBORHOODS COMMUNITIES.**

Subdivision 1. **City authority.** A city may by resolution designate a targeted ~~neighborhoods~~ community within its borders after adopting detailed findings that the designated ~~neighborhoods~~ communities meet the eligibility requirements in subdivision 2 or 3.

Subd. 2. **Eligibility requirements for targeted ~~neighborhoods~~ communities.** An area within a city is eligible for designation as a targeted ~~neighborhood~~ community if the area meets ~~two~~ three of the following ~~three~~ four criteria:

(a) The area had an unemployment rate that was twice the unemployment rate for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the most recent federal decennial census.

(b) The median household income in the area was no more than ~~half~~ 80 percent of the median household income for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the most recent federal decennial census.

(c) The area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this paragraph if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city, or if 70 percent or more of the residential dwelling units in the area were built before ~~1940~~ 1960 as determined by the most recent federal decennial census.

(d) The area is characterized by having a disproportionate number of vacant residential buildings and mortgage foreclosures. An area qualifies under this paragraph if it has either:

(1) a foreclosure rate of at least 1.5 percent in 2008; or

(2) a foreclosure rate in 2008 in the city or in a zip code area of the city that is at least 50 percent higher than the average foreclosure rate in the metropolitan area, as defined in section 473.121, subdivision 2. For purposes of this paragraph, "foreclosure rate" means the number of foreclosures, as indicated by sheriff sales records, divided by the number of households in the city in 2007.

Subd. 3. **Additional area eligible for inclusion in targeted ~~neighborhood~~ community.** (a)

A city may add to the area designated as a targeted ~~neighborhood~~ community under subdivision 2 additional area extending up to four contiguous city blocks in all directions from the designated targeted ~~neighborhood~~ community. For the purpose of this subdivision, "city block" has the meaning determined by the city; or

(b) The city may enlarge the targeted ~~neighborhood~~ community to include portions of a census tract that is contiguous to a targeted ~~neighborhood~~ community, provided that the city council first determines the additional area satisfies ~~two~~ three of the ~~three~~ four criteria in subdivision 2.

Sec. 14. Minnesota Statutes 2008, section 469.203, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** For each targeted ~~neighborhood~~ community for which a city requests state financial assistance under section 469.204, the city must prepare a comprehensive revitalization and financing program that includes the following:

- (1) the revitalization objectives of the city for the targeted ~~neighborhood~~ community;
- (2) the specific activities or means by which the city intends to pursue and implement the revitalization objectives;
- (3) the extent to which the activities identified in clause (2) will benefit low- and moderate-income families, will alleviate the blighted condition of the targeted ~~neighborhood~~ community, or will otherwise assist in the revitalization of the targeted ~~neighborhood~~ community;
- (4) a statement of the intended outcomes to be achieved by implementation of the targeted revitalization program, how the outcomes will be measured both qualitatively and quantitatively, and the estimated time over which they will occur; and
- (5) a financing program and budget that identifies the financial resources necessary to implement the targeted revitalization program, including:
  - (i) the estimated total cost to implement the targeted revitalization program;
  - (ii) the estimated cost to implement each activity in the revitalization program identified in clause (2);
  - (iii) the estimated amount of financial resources that will be available from all sources other than from the appropriation available under section 469.204 to implement the revitalization program, including the amount of private investment expected to result from the use of public money in the targeted ~~neighborhood~~ community;
  - (iv) the estimated amount of the appropriation available under section 469.204 that will be necessary to implement the targeted revitalization program;
  - (v) a description of the activities identified in the targeted revitalization program for which the state appropriation will be committed or spent; and
  - (vi) a statement of how the city intends to meet the requirement for a financial contribution from city matching money ~~in accordance with section 469.204, subdivision 3.~~

Sec. 15. Minnesota Statutes 2008, section 469.203, subdivision 2, is amended to read:

Subd. 2. **Targeted ~~neighborhood~~ community participation in preparing revitalization**

**program.** A city requesting state financial assistance under section 469.204 shall ~~adopt~~ follow a process to involve the residents of targeted ~~neighborhoods~~ communities in the development, drafting, and implementation of the targeted revitalization program. The process shall include the use of a citizen participation process established by the city. A description of the process must be included in the program. The process to involve residents of the targeted ~~neighborhood~~ community must include at least one public hearing. ~~The city of Minneapolis shall establish the community-based process as outlined in subdivision 3. The city of St. Paul shall use the same community-based process the city used in planning, developing, drafting, and implementing the revitalization program required under Laws 1987, chapter 386, article 6, section 6. The city of Duluth shall use the same citizen participation process the city used in planning, developing, and implementing the federal-funded community development program~~ meeting in the targeted community.

Sec. 16. Minnesota Statutes 2008, section 469.203, subdivision 4, is amended to read:

Subd. 4. **City approval of program.** (a) Before or after adoption of a revitalization program under paragraph (b), the city must submit a preliminary program to the commissioner and the Minnesota Housing Finance Agency for their comments. ~~The city may not adopt the revitalization program until comments have been received from the state agencies or 30 days have elapsed without response after the program was sent to them.~~ Comments received by the city from the state agencies within ~~the 30-day period~~ 30 days after submission of the preliminary program must be responded to in writing by the city ~~before adoption of the program by the city.~~

(b) The city may adopt a targeted revitalization program ~~only after holding a public hearing after the program has been prepared. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the most widely circulated community newspaper in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing subject to any local public notification requirements and consistent with citizen participation process established for identifying targeted communities.~~

(c) A certification by the city that a targeted revitalization program has been approved by the city council for the targeted ~~neighborhood~~ community must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the Minnesota Housing Finance Agency ~~and the commissioner of employment and economic development.~~

(d) A targeted revitalization program for the city may be modified at any time by the city council after a public hearing, notice of which is published in a newspaper of general circulation in the city ~~and in the targeted neighborhood~~ at least ten days nor more than 30 days before the date of the hearing. If the city council determines that the proposed modification is a significant modification to the program originally certified under paragraph (c), the city council shall implement the targeted revitalization program approval and certification process of this subdivision for the proposed modification.

Sec. 17. Minnesota Statutes 2008, section 469.204, subdivision 1, is amended to read:

Subdivision 1. **Payment of state money.** Upon receipt from a city of a certification that a revitalization program has been adopted or modified, the commissioner shall, within 30 days, pay to the city the amount of state money identified as necessary to implement the revitalization program or program modification. ~~State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded. Once the state money~~

has been paid to the city, it becomes targeted ~~neighborhood~~ community money for use by the city in accordance with an adopted revitalization program and subject only to the restrictions on its use in sections 469.201 to 469.207.

Sec. 18. Minnesota Statutes 2008, section 469.204, is amended by adding a subdivision to read:

**Subd. 4. Revolving fund.** A targeted community revitalization revolving fund is established in the state treasury. The fund consists of all money appropriated to the commissioner for the purposes of sections 469.201 to 469.207 and all proceeds received by the commissioner as the result of housing activities related to a targeted community revitalization program.

Sec. 19. Minnesota Statutes 2008, section 469.205, is amended to read:

**469.205 CITY POWERS; USES OF TARGETED ~~NEIGHBORHOOD~~ COMMUNITY MONEY.**

Subdivision 1. **Consolidation of existing powers in targeted ~~neighborhoods~~ communities.** A city may exercise any of its corporate powers within a targeted ~~neighborhood~~ community. Those powers shall include, but not be limited to, all of the powers enumerated and granted to any city by chapters 462C, 469, and 474A. For the purposes of sections 469.048 to 469.068, a targeted ~~neighborhood~~ community is considered an industrial development district. A city may exercise the powers of sections 469.048 to 469.068 in conjunction with, and in addition to, exercising the powers granted by sections 469.001 to 469.047 and chapter 462C, in order to promote and assist housing construction and rehabilitation within a targeted ~~neighborhood~~ community. For the purposes of section 462C.02, subdivision 9, a targeted ~~neighborhood~~ community is considered a "targeted area."

Subd. 2. **Grants and loans.** In addition to the authority granted by other law, a city may make grants, loans, and other forms of public assistance to individuals, for-profit and nonprofit corporations, and other organizations to implement a targeted revitalization program. The public assistance must contain the terms the city considers proper to implement a targeted revitalization program.

Subd. 3. **Eligible uses of targeted ~~neighborhood~~ community money.** The city may spend targeted ~~neighborhood~~ community money for any purpose authorized by subdivision 1 or 2, except that an amount equal to at least 50 percent of the state payment under section 469.204 made to the city must be used for housing activities. Use of ~~target neighborhood~~ targeted community money must be authorized in a targeted revitalization program.

Sec. 20. Minnesota Statutes 2008, section 469.207, subdivision 2, is amended to read:

Subd. 2. **Annual report.** A city that begins to implement a revitalization program in a calendar year must, by March 1 of the succeeding calendar year, provide a detailed report on the revitalization program or programs being implemented in the city. The report must describe the status of the program implementation and analyze whether the intended outcomes identified in section 469.203, subdivision 1, clause (4), are being achieved. The report must include at least the following:

(1) the number of housing units, including lost units, removed, created, lost, replaced, relocated, and assisted as a result of the program. The level of rent of the units and the income of the households affected must be included in the report;

(2) the number and type of commercial establishments removed, created, and assisted as a result

of a revitalization program. The report must include information regarding the number of new jobs created by category, whether the jobs are full time or part time, and the salary or wage levels of both new and expanded jobs in the affected commercial establishments;

(3) a description of a statement of the cost of the public improvement projects that are part of the program and the number of jobs created for each \$20,000 of money spent on commercial projects and applicable public improvement projects;

(4) the increase in the tax capacity for the city as a result of the assistance to commercial and housing assistance; and

(5) the amount of private investment that is a result of the use of public money in a targeted neighborhood community.

The report must be submitted to the commissioner, the Minnesota housing finance agency, and the legislative audit commission, and must be available to the public.

Sec. 21. Minnesota Statutes 2008, section 580.07, is amended to read:

**580.07 POSTPONEMENT.**

**Subdivision 1. Postponement by mortgagee.** The sale may be postponed, from time to time, by the party conducting the foreclosure, by inserting a notice of the postponement, as soon as practicable, in the newspaper in which the original advertisement was published, at the expense of the party requesting the postponement. The notice shall be published only once.

**Subd. 2. Postponement by mortgagor or owner.** (a) If all or a part of the property to be sold is classified as homestead under section 273.124 and contains one to four dwelling units, the mortgagor or owner may postpone the sale to the first date that is not a Saturday, Sunday, or legal holiday and is five months after the originally scheduled date of sale in the manner provided in this subdivision. To postpone a foreclosure sale pursuant to this subdivision, at any time after the first publication of the notice of mortgage foreclosure sale under section 580.03 but at least 15 days prior to the scheduled sale date specified in that notice, the mortgagor shall: (1) execute a sworn affidavit in the form set forth in subdivision 3, (2) record the affidavit in the office of each county recorder and registrar of titles where the mortgage was recorded, and (3) file with the sheriff conducting the sale and deliver to the attorney foreclosing the mortgage, a copy of the recorded affidavit, showing the date and office in which the affidavit was recorded. Recording of the affidavit and postponement of the foreclosure sale pursuant to this subdivision shall automatically reduce the mortgagor's redemption period under section 580.23 to five weeks. The postponement of a foreclosure sale pursuant to this subdivision does not require any change in the contents of the notice of sale, service of the notice of sale if the occupant was served with the notice of sale prior to postponement under this subdivision, or publication of the notice of sale if publication was commenced prior to postponement under this subdivision, notwithstanding the service and publication time periods specified in section 580.03, but the sheriff's certificate of sale shall indicate the actual date of the foreclosure sale and the actual length of the mortgagor's redemption period. No notice of postponement need be published. An affidavit complying with subdivision 3 shall be prima facie evidence of the facts stated therein, and shall be entitled to be recorded. The right to postpone a foreclosure sale pursuant to this subdivision may be exercised only once, regardless whether the mortgagor reinstates the mortgage prior to the postponed mortgage foreclosure sale.

(b) If the automatic stay under United States Code, title 11, section 362, applies to the mortgage foreclosure after a mortgagor or owner requests postponement of the sheriff's sale under this section, then when the automatic stay is no longer applicable, the mortgagor's or owner's election to shorten the redemption period to five weeks under this section remains applicable to the mortgage foreclosure.

Subd. 3. **Affidavit form.** The affidavit referred to in subdivision 2 shall be in substantially the following form and shall contain all of the following information.

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ (whether one or more, "Owner"), being first duly sworn on oath, states as follows:

1. (He is) (She is) (They are) the owner(s) or mortgagor(s) of the real property (the "Property") situated in \_\_\_\_\_ (Name of) County, Minnesota, legally described in the attached published Notice of Mortgage Foreclosure Sale (the "Notice"), and make this affidavit for the purpose of postponing the foreclosure sale of the Property pursuant to Minnesota Statutes, section 580.07, subdivision 2, for five months from the date scheduled in the attached Notice.

2. The Property is classified as homestead under Minnesota Statutes, section 273.124, is occupied by Owner as a homestead, and is improved with not more than four dwelling units.

3. Owner has elected to shorten Owner's redemption period from any foreclosure sale of the Property to five weeks in exchange for the postponement of the foreclosure sale for five months.

\_\_\_\_\_ (signature(s) of owner)

Signed and sworn to (or affirmed) before me on ..... (date) by ..... (name(s) of person(s) making statement).

\_\_\_\_\_ (signature of notary public)

Notary Public

**EFFECTIVE DATE.** This section is effective one month after the date of final enactment, and applies to foreclosure sales scheduled to occur on or after said effective date.

**Sec. 22. CONSTRUCTION MITIGATION PILOT PROGRAM.**

Subdivision 1. **Purpose.** The purpose of the construction mitigation grant program is to mitigate the impacts of transportation construction on local small businesses, to promote the retention of jobs in transportation construction areas, and to provide outreach to the public and small businesses to minimize interruption to local commerce. The Department of Transportation, Department of Employment and Economic Development, and local government units shall work together to ensure that the recommendations of the Department of Transportation's 2009 report to the legislature on transportation construction impacts and any statutory changes resulting from the report recommendations are applied when implementing the grant program.

Subd. 2. **Establishment.** The commissioner of employment and economic development shall

develop and implement a construction mitigation grant program to make grants available to local government units to mitigate the impacts of transportation construction on local small businesses.

Subd. 3. **Definitions.** For purposes of this section:

(1) "applicant" means a local government unit;

(2) "commissioner" means the commissioner of the Department of Employment and Economic Development;

(3) "eligible transportation project entirely or partially funded by state or federal funds" means a project that will affect one or more small businesses as a result of transportation work because the work is anticipated to impair road access for a minimum period of one month;

(4) "local government unit" means a county, statutory or home rule charter city, town, special district, or other political subdivision;

(5) "project" has the meaning given it in Minnesota Statutes, section 161.2415; and

(6) "small business" means a business that employs ten or fewer employees and is located in an area that is adjacent to an eligible project.

Subd. 4. **Applications.** A grant applicant shall prepare and submit to the commissioner a written proposal detailing a construction mitigation plan and strategies on how the applicant will implement the plan to meet the purpose of the grant program as provided in subdivision 1. An applicant shall identify any nonstate funding sources available to match state funds distributed under subdivision 5.

Subd. 5. **Fund distribution.** In distributing funds, the commissioner shall consider the types of businesses affected by the eligible transportation project and shall balance funding between eligible transportation projects within the seven-county metropolitan area and eligible transportation projects outside of the seven-county metropolitan area.

Subd. 6. **Expiration.** This section expires on July 1, 2011.

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

Sec. 23. **REPEALER.**

Minnesota Statutes 2008, sections 469.203, subdivision 3; and 469.204, subdivisions 2 and 3, are repealed.

## ARTICLE 9

### MINNESOTA HERITAGE

Section 1. Minnesota Statutes 2008, section 129D.13, subdivision 1, is amended to read:

Subdivision 1. **Distribution.** The commissioner shall distribute the money provided by sections 129D.11 to 129D.13. Twice Annually the commissioner shall make block grants which shall be distributed in equal amounts to public stations for operational costs. The commissioner shall allocate money appropriated for the purposes of sections 129D.11 to 129D.13 in such a manner that each eligible public station receives a block grant. In addition, the commissioner shall make

matching grants to public stations. Matching grants shall be used for operational costs and shall be allocated using the procedure developed for distribution of state money under this section for grants made in fiscal year 1979. No station's matching grant in any fiscal year shall exceed the amount of Minnesota-based contributions received by that station in the previous fiscal year. Grants made pursuant to this subdivision may only be given to those federally licensed stations that are certified as eligible for community service grants through the Corporation for Public Broadcasting. Grant funds not expended by a station during the first year of the biennium do not cancel and may be carried over into the second fiscal year.

Sec. 2. Minnesota Statutes 2008, section 129D.13, subdivision 2, is amended to read:

Subd. 2. **Exclusions from contribution amount.** In calculating the amount of contributions received by a public station pursuant to subdivision 1, there shall be excluded: contributions, whether monetary or in kind, from the Corporation for Public Broadcasting; tax generated funds, including payments by public or private elementary and secondary schools; that portion of any foundation or corporation donation in excess of \$500 \$2,500 from any one contributor in ~~a calendar~~ the previous station fiscal year; contributions from any source if made for the purpose of capital expenditures; and contributions from all sources based outside the state.

Sec. 3. Minnesota Statutes 2008, section 129D.13, subdivision 3, is amended to read:

Subd. 3. **Report.** Each ~~educational~~ station receiving a grant shall ~~annually~~ report ~~by July 1~~ annually by August 1 to the commissioner the purposes for which the money was used in the past ~~fiscal~~ year and the anticipated use of the money in the next ~~fiscal~~ year. ~~The report shall be certified by an independent auditor or a certified public accountant. This report shall be submitted along with a new grant request submission. If the report is not submitted by September 1, the commissioner may withhold from the educational station 45 percent of the amount to which it was entitled based upon the contribution of the previous fiscal year, and may redistribute that money to other educational stations.~~

Sec. 4. Minnesota Statutes 2008, section 129D.14, subdivision 4, is amended to read:

Subd. 4. **Application.** To be eligible for a grant under this section, a licensee shall submit an application to the commissioner ~~within the deadline prescribed by the commissioner~~ according to state grant policies. Each noncommercial radio station receiving a grant shall report ~~annually within the deadline prescribed by~~ August 1 to the commissioner the purposes for which the money was used in the past ~~fiscal~~ year and the anticipated use of the money for the next ~~fiscal~~ year. This report shall be submitted along with a new grant request submission. If the application and report are not submitted within the deadline prescribed by the commissioner, the grant may be redistributed to the other noncommercial radio stations eligible for a grant under this section.

Sec. 5. Minnesota Statutes 2008, section 129D.14, subdivision 5, is amended to read:

Subd. 5. **State community service block grants.** (a) The commissioner shall determine eligibility for block grants and the allocation of block grant money on the basis of audited financial records of the station to receive the block grant funds for the station's fiscal year preceding the year in which the grant is made, as well as on the basis of the other requirements set forth in this section. The commissioner shall annually distribute block grants equally to all stations that comply with the eligibility requirements and for which a licensee applies for a block grant. Grant funds not expended by a station during the first year of the biennium do not cancel and may be carried over

into the second fiscal year. The commissioner may promulgate rules to implement this section.

(b) A station may use grant money under this section for any radio station expenses.

Sec. 6. Minnesota Statutes 2008, section 129D.14, subdivision 6, is amended to read:

Subd. 6. **Audit.** A station that receives a grant under this section shall have an audit of its financial records made by an independent auditor or Corporation for Public Broadcasting accepted audit ~~at the end of for the fiscal year for which it received the grant. The audit shall include a review of station promotion, operation, and management and an analysis of the station's use of the grant money.~~ A copy of the most recent audit shall be filed with the commissioner. ~~If neither is available,~~ The commissioner may accept a letter of negative assurance from an independent auditor or a certified public accountant.

Sec. 7. Minnesota Statutes 2008, section 129D.155, is amended to read:

**129D.155 REPAYMENT OF FUNDS.**

State funds distributed to public television or noncommercial radio stations and used to purchase equipment assets must be repaid to the state, without interest, if the assets purchased with these funds are sold within five years or otherwise converted to a person other than a nonprofit or municipal corporation. The amount due to the state shall be the net amount realized from the sale of the assets, but shall not exceed the amount of state funds advanced for the purchase of the asset. ~~Public television and noncommercial radio stations receiving state funds must report biennially to the legislature on the location and usage of assets purchased with state funds.~~

Sec. 8. **COLOCATION REPORT.**

The Management Analysis Division of the Department of Finance must study and report to the legislature by January 15, 2010, on possible colocation of the offices of the Council on Black Minnesotans, the Council on Affairs of Chicano/Latino People, the Council on Asian-Pacific Minnesotans, and the metropolitan area office of the Indian Affairs Council. The report must include analysis of potential cost savings, when those savings could be realized, and the effect of potential colocation on operations of the councils.

Sec. 9. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, the revisor of statutes shall change the term "commission" to "center" wherever the term appears as part of or in reference to "Minnesota Humanities Commission."

Sec. 10. **REPEALER.**

Minnesota Statutes 2008, section 129D.13, subdivision 4, is repealed."

Delete the title and insert:

"A bill for an act relating to state government; amending certain employment and economic development provisions; establishing and modifying certain projects, grants, and programs; making technical changes; regulating certain activities and practices; defining terms; providing penalties; establishing working groups; regulating unemployment insurance; regulating labor standards and wages; providing for licensing and fees; amending Iron Range resources provisions; regulating certain facilities; regulating certain boards and committees; modifying certain Housing

Finance Authority provisions; modifying Heritage Finance provisions; requiring certain reports; appropriating money; amending Minnesota Statutes 2008, sections 15.75, subdivision 5; 16B.54, subdivision 2; 16C.28, by adding a subdivision; 41A.02, subdivision 17; 41A.036, subdivisions 4, 5; 84.94, subdivision 3; 85.0146, subdivision 1; 89A.08, subdivision 1; 115C.08, subdivision 4; 116J.035, subdivisions 1, 6; 116J.401, subdivision 2; 116J.424; 116J.431, subdivisions 1, 2, 4, 6, by adding a subdivision; 116J.435, subdivision 3; 116J.554, subdivision 1; 116J.555, subdivision 1; 116J.68, subdivision 2; 116J.8731, subdivisions 2, 3; 116L.03, subdivision 5; 116L.05, subdivision 5; 116L.20, subdivision 1; 116L.362, subdivision 1; 116L.364, subdivision 3; 116L.871, subdivision 1; 116L.96; 116O.115, subdivisions 2, 4; 123A.08, subdivision 1; 124D.49, subdivision 3; 129D.13, subdivisions 1, 2, 3; 129D.14, subdivisions 4, 5, 6; 129D.155; 154.001; 154.003; 154.19; 154.44, subdivision 1; 154.51; 160.16, by adding a subdivision; 160.276, subdivision 8; 177.27, subdivision 4; 177.30; 177.31; 177.32; 177.42, subdivision 6, by adding a subdivision; 177.43, subdivision 3; 178.02, subdivision 2; 181.723, by adding a subdivision; 182.656, subdivision 3; 214.01, subdivision 3; 214.04, subdivision 3; 216B.1612, subdivision 2; 241.27, subdivision 1; 248.061, subdivision 3; 248.07, subdivisions 7, 8; 256J.626, subdivision 4; 256J.66, subdivision 1; 268.031; 268.035, subdivisions 2, 17, by adding subdivisions; 268.042, subdivision 3; 268.043; 268.044, subdivision 2; 268.047, subdivisions 1, 2; 268.051, subdivisions 1, 4; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivisions 4, 5; 268.0625, subdivision 1; 268.066; 268.067; 268.069, subdivisions 1, 2; 268.07, subdivisions 1, 2, 3, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 15; 268.095, subdivisions 1, 2, 10, 11; 268.101, subdivisions 1, 2; 268.103, subdivision 1, by adding a subdivision; 268.105, subdivisions 1, 2, 3a, 4, 5; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivision 4; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 4a; 268.186; 268.196, subdivisions 1, 2; 268.199; 268.211; 268A.06, subdivision 1; 270.97; 298.22, subdivisions 2, 5a, 6, 7, 8, 10, 11; 298.221; 298.2211, subdivision 3; 298.2213, subdivisions 4, 5; 298.2214, subdivision 1, by adding a subdivision; 298.223; 298.227; 298.28, subdivision 9d; 298.292, subdivision 2; 298.294; 298.296, subdivision 2; 298.2961; 298.297; 326B.33, subdivisions 13, 19; 326B.46, subdivision 4; 326B.475, subdivisions 4, 7; 326B.49, subdivision 1; 326B.56, subdivision 4; 326B.58; 326B.815, subdivision 1; 326B.821, subdivision 2; 326B.86, subdivision 1; 326B.885, subdivision 2; 326B.89, subdivisions 3, 16; 326B.94, subdivision 4; 326B.972; 326B.986, subdivisions 2, 5, 8; 327B.04, subdivisions 7, 8, by adding a subdivision; 327C.03, by adding a subdivision; 327C.095, subdivisions 12, 13; 462A.05, subdivisions 14, 14a; 469.169, subdivision 3; 469.201, subdivisions 2, 4, 6, 7, 10, 11, 12; 469.202; 469.203, subdivisions 1, 2, 4; 469.204, subdivision 1, by adding a subdivision; 469.205; 469.207, subdivision 2; 580.07; Laws 1998, chapter 404, section 23, subdivision 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 1; 116J; 137; 155A; 161; 181; 268; 298; 326B; repealing Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.431, subdivision 5; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; 116U.65; 129D.13, subdivision 4; 176.135, subdivision 1b; 268.085, subdivision 14; 268.086, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 469.203, subdivision 3; 469.204, subdivisions 2, 3; Minnesota Rules, part 1350.8300."

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

Senate Conferees: (Signed) David Tomassoni, James Metzen, Dan Sparks, Kenneth Kelash

House Conferees: (Signed) Tom Rukavina, Mary Murphy, Karen Clark, Tim Mahoney

Senator Tomassoni moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2081 be now adopted, and that the bill be repassed as amended by the Conference

Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2081 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 38 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Lynch	Pogemiller	Sparks
Bakk	Frederickson	Metzen	Prettner Solon	Stumpf
Betzold	Higgins	Moua	Saltzman	Tomassoni
Carlson	Kelash	Murphy	Saxhaug	Torres Ray
Chaudhary	Kubly	Olseen	Scheid	Vickerman
Cohen	Langseth	Olson, G.	Sieben	Wiger
Dahle	Latz	Olson, M.	Skoe	
Dibble	Lourey	Pappas	Skogen	

Those who voted in the negative were:

Berglin	Erickson Ropes	Ingebrigtsen	Michel	Rummel
Bonoff	Fischbach	Johnson	Ortman	Senjem
Clark	Fobbe	Jungbauer	Pariseau	Sheran
Day	Gerlach	Koch	Rest	Vandevveer
Dille	Gimse	Koering	Robling	
Doll	Hann	Marty	Rosen	

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

### CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Rosen moved that the following members be excused for a Conference Committee on H.F. No. 1362 at 8:30 p.m.:

Senators Berglin, Lourey, Sheran, Rosen and Prettner Solon. The motion prevailed.

### RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2123, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2123 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 4, 2009

**CONFERENCE COMMITTEE REPORT ON H. F. NO. 2123**

A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008,

chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

May 4, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

We, the undersigned conferees for H. F. No. 2123 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 2123 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**ENVIRONMENT AND NATURAL RESOURCES FINANCE**

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>112,820,000</u>	\$ <u>111,945,000</u>	\$ <u>224,765,000</u>
<u>State Government Special Revenue</u>	<u>48,000</u>	<u>48,000</u>	<u>96,000</u>
<u>Environmental</u>	<u>69,064,000</u>	<u>69,188,000</u>	<u>138,252,000</u>
<u>Natural Resources</u>	<u>82,010,000</u>	<u>80,910,000</u>	<u>162,920,000</u>
<u>Game and Fish</u>	<u>94,312,000</u>	<u>93,912,000</u>	<u>188,224,000</u>
<u>Remediation</u>	<u>11,186,000</u>	<u>11,186,000</u>	<u>22,372,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>	<u>400,000</u>
<b><u>Total</u></b>	<b>\$ <u>369,640,000</u></b>	<b>\$ <u>367,389,000</u></b>	<b>\$ <u>737,029,000</u></b>

Sec. 2. **ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the

fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2010**                      **2011**

**Sec. 3. POLLUTION CONTROL AGENCY**

**Subdivision 1. Total Appropriation**                      \$            **90,969,000** \$            **90,493,000**

**Appropriations by Fund**

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>10,771,000</u>	<u>10,171,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>
<u>Environmental</u>	<u>69,064,000</u>	<u>69,188,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

The commissioner shall require the chief financial officer or other financial staff to display the agency's budget on the agency's Web site in a manner that will allow citizens to understand more easily the value they are getting for their money. The agency must have an air permit and regulatory account, water permit and regulatory account, and solid waste permit and regulatory account to track revenues and expenses.

By October 1, 2010 and 2011, the commissioner shall submit a report to the chairs of the legislative committees with primary jurisdiction over the environment and natural resources policy and finance that includes the number of environmental assessment worksheets completed in the previous fiscal year, the total number of staff hours spent on those environmental

assessment worksheets, and the average and median number of hours spent per completed environmental assessment worksheet.

Fee rules adopted by the agency during fiscal year 2010 are effective retroactively on July 1, 2009.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the agency by June 30 each year. A recipient without an active Web site shall report to the agency by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The commissioner shall display the information received by recipients under this paragraph on the agency's Web site.

<u>Subd. 2. <b>Water</b></u>		<u>33,867,000</u>	<u>33,267,000</u>
	<u>Appropriations by Fund</u>		
<u>General</u>	<u>8,148,000</u>	<u>7,548,000</u>	
<u>State Government</u>			
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>	
<u>Environmental</u>	<u>25,671,000</u>	<u>25,671,000</u>	

\$2,348,000 the first year and \$2,348,000 the second year are for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater according to Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Funds from this appropriation may not be used to purchase or use pesticides suspected by current science of being endocrine disruptors. To the extent possible, with money from this appropriation, a person must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a

high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination. Any balance remaining in the first year does not cancel and is available for the second year.

\$2,164,000 the first year and \$2,164,000 the second year must be distributed as grants to delegated counties to administer the county feedlot program under new Minnesota Statutes, section 116.0711, subdivisions 2 and 3. Any money remaining after the first year is available for the second year.

\$310,000 the first year and \$310,000 the second year are for community technical assistance and education, including grants and technical assistance to communities for local and basinwide water quality protection.

\$100,000 the first year is for grants to local units of government to implement cost-effective projects to control runoff, prevent erosion, and provide ditch stabilization, in order to protect water quality in lakes, rivers, and streams and to protect groundwater from degradation. This is a onetime appropriation.

\$350,000 the first year and \$350,000 the second year are for challenge grants to counties for subsurface sewage treatment system (SSTS) inventories that will determine the number of systems that are failing or that pose an imminent health threat and are located on riparian land or a lake or near wetlands or other sensitive waters. Counties must provide a nonstate match of at least 50 percent that may be in cash or in kind. The commissioner shall, by county, report: the number of systems evaluated, the number of systems determined to be failing or that pose an imminent health threat located on riparian land or a lake or near wetlands or other sensitive waters, the number replaced or soon to be replaced, and the gallons of sewage that are prevented from threatening

waters. The commissioner shall develop recommendations and a plan for directly or indirectly inspecting and providing an inventory for all subsurface sewage treatment systems and submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance no later than September 15, 2010. Direct inspection methods shall include field verification of each SSTS on riparian land or a lake or near wetlands or other sensitive waters to determine the owner, location, and which systems are failing or are an imminent health threat. Indirect inspection methods may include census-type data collection to determine the owner and location of each SSTS in the remaining portion of each county. An SSTS with a valid certificate of compliance may be considered inventoried without further work. This is a onetime appropriation.

\$375,000 the first year and \$375,000 the second year are for subsurface sewage treatment system (SSTS) administration and grants. Of this amount, \$80,000 each year is for assistance to counties through grants for SSTS program administration. Any unexpended balance in the first year does not cancel but is available in the second year.

\$740,000 the first year and \$740,000 the second year are from the environmental fund to address the need for continued increased activity in the areas of new technology review, technical assistance for local governments, and enforcement under Minnesota Statutes, sections 115.55 to 115.58, and to complete the requirements of Laws 2003, chapter 128, article 1, section 165. Of this amount, \$48,000 each year is for administration of individual septic tank fees, as provided in this article.

\$1,250,000 the first year and \$1,250,000 the second year are for assessment and monitoring of lakes, rivers, and streams.

\$100,000 the first year and \$100,000 the second year are for a grant to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North and shall enhance student understanding of the causes of flooding, flood prevention, and the impacts of flood waters on land and water resources. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative committees with jurisdiction over the environment and natural resources policy and finance and K-12 policy and finance by February 15, 2011. This is a onetime appropriation.

\$7,540,000 the first year and \$7,540,000 the second year are from the environmental fund for completion of 20 percent of the needed statewide assessments of surface water quality and trends.

\$500,000 the first year is to develop minimal impact design standards for urban storm water runoff. This is a onetime appropriation and is available until June 30, 2011. The commissioner shall report to the chairs and ranking minority members of the legislative committees and divisions having primary jurisdiction over environment and natural resources policy and finance no later than January 12, 2011, regarding the expenditure of this appropriation.

By October 1, 2009 and 2010, the commissioner shall report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the effectiveness of enforcement actions in the previous fiscal year in preventing water pollution.

The commissioner shall continue the rulemaking process to better align water

permit fee revenue for fiscal years 2010, 2011, 2012, and 2013 with the cost of issuing permits, including environmental review.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts for clean water partnership, SSTS's, surface water and groundwater assessments, total maximum daily loads, stormwater, and local basinwide water quality protection in this subdivision are available until June 30, 2013.

<u>Subd. 3. Air</u>	<u>11,871,000</u>	<u>12,131,000</u>
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Appropriations by Fund

<u>Environmental</u>	<u>11,871,000</u>	<u>12,131,000</u>
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Up to \$150,000 the first year and \$150,000 the second year may be transferred from the environmental fund to the small business environmental improvement loan account established in Minnesota Statutes, section 116.993.

\$200,000 the first year and \$200,000 the second year are from the environmental fund for a monitoring program under Minnesota Statutes, section 116.454.

\$125,000 the first year and \$125,000 the second year are from the environmental fund for monitoring ambient air for hazardous pollutants in the metropolitan area.

An agency report on the level of fine particulate matter in Minnesota's air must compare measured levels with a 24-hour PM 2.5 standard of 13 to 14 micrograms per cubic meter and an annual PM 2.5 standard of 30 to 35 micrograms per cubic meter, as recommended by the Particulate Matter Review Panel of the Environmental Protection Agency's Clean Air Scientific Advisory Committee in its June 2005 report, EPA's Review of the National Ambient Air Quality Standards for Particulate Matter (Second Draft PM Staff Paper, January 2005).

\$700,000 the first year and \$700,000 the second year are from the environmental fund for an air emissions database, including monitoring greenhouse gas emissions.

The commissioner shall continue the rulemaking process to better align air quality fee revenue for fiscal years 2010, 2011, 2012, and 2013 with the cost of issuing permits, including environmental review.

**Subd. 4. Land**

18,467,000

18,467,000

Appropriations by Fund

<u>General</u>	<u>465,000</u>	<u>465,000</u>
<u>Environmental</u>	<u>6,916,000</u>	<u>6,916,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the Pollution Control Agency and agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (6), and (7). At the beginning of each fiscal year, the two commissioners shall jointly submit an annual spending plan to the commissioner of finance that maximizes the utilization of resources and appropriately allocates the money between the two departments. This appropriation is available until June 20, 2011.

\$3,616,000 the first year and \$3,616,000 the second year are from the petroleum tank fund to be transferred to the remediation fund for purposes of the leaking underground storage tank program to protect the land.

\$252,000 the first year and \$252,000 the second year are from the remediation fund to be transferred to the Department of Health for private water supply monitoring and health assessment costs in areas contaminated by unpermitted mixed municipal solid waste disposal facilities and drinking water

advisories and public information activities for areas contaminated by hazardous releases.

\$500,000 each year is for environmental health tracking and biomonitoring of a representative sample of the population including indigenous people and people of color. Of this amount, \$450,000 each year is for transfer to the Department of Health.

**Subd. 5. Environmental Assistance and Cross-Media**

25,420,000

25,284,000

Appropriations by Fund

<u>General</u>	<u>814,000</u>	<u>814,000</u>
<u>Environmental</u>	<u>24,606,000</u>	<u>24,470,000</u>

\$14,250,000 each year is from the environmental fund for SCORE block grants to counties.

\$250,000 each year is from the environmental fund to administer the composting grant program established under new Minnesota Statutes, section 115A.559. The appropriation is added to the agency base and available until June 30, 2011.

By January 15, 2012, the commissioner shall report to the legislative committees with jurisdiction over environment and natural resources policy on:

(1) the mixed municipal solid waste diversion rates accomplished by the grant program under new Minnesota Statutes, section 115A.559;

(2) participants in the grant program and the programs developed with grant funds; and

(3) the potential for new permanent programs based on results of projects funded with grants issued under new Minnesota Statutes, section 115A.559.

\$225,000 the first year and \$89,000 the second year are from the environmental fund for duties related to harmful chemicals

in products under new Minnesota Statutes, sections 116.9401 to 116.9407. Of this amount, \$133,000 the first year and \$57,000 the second year are for transfer to the Department of Health.

\$119,000 the first year and \$119,000 the second year are from the environmental fund for environmental assistance grants or loans under Minnesota Statutes, section 115A.0716. Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

All money deposited in the environmental fund for the metropolitan solid waste landfill fee in accordance with Minnesota Statutes, section 473.843, and not otherwise appropriated, is appropriated for the purposes of Minnesota Statutes, section 473.844.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as contracts or grants for surface water and groundwater assessments; environmental assistance awarded under Minnesota Statutes, section 115A.0716; technical and research assistance under Minnesota Statutes, section 115A.152; technical assistance under Minnesota Statutes, section 115A.52; and pollution prevention assistance under Minnesota Statutes, section 115D.04, are available until June 30, 2013.

Before the governor makes budget recommendations to the legislature in 2011, the commissioner must report on revenues received and expenditures made under Minnesota Statutes, section 115A.1314, subdivision 2, during fiscal years 2010 and 2011 to determine if fees collected are covering the costs of the program and request that the governor recommend a direct appropriation for the purposes of that section.

Subd. 6. **Administrative Support**

1,344,000

1,344,000



on the department's Web site.

The commissioner shall require the chief financial officer or other financial staff to display the department's budget on the department's Web site in a manner that will allow citizens to easily understand the value they are getting for their money.

<b>Subd. 2. <u>Land and Mineral Resources Management</u></b>	<u>10,398,000</u>	<u>10,398,000</u>
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Appropriations by Fund

<u>General</u>	<u>3,351,000</u>	<u>3,351,000</u>
<u>Natural Resources</u>	<u>5,461,000</u>	<u>5,461,000</u>
<u>Game and Fish</u>	<u>1,386,000</u>	<u>1,386,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

\$1,202,000 the first year and \$1,202,000 the second year are from the mining administration account in the natural resources fund to cover the costs associated with issuing mining permits.

\$612,000 each year is from the dedicated receipts account in the natural resources fund to cover the costs associated with issuing licenses for land and water crossings and road easements.

\$351,000 the first year and \$351,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund. \$175,500 the first year and \$175,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,696,000 the first year and \$2,696,000

the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c), for mineral resource management, projects to enhance future mineral income, and projects to promote new mineral resource opportunities.

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

**Subd. 3. Water Resources Management**

11,732,000

11,732,000

Appropriations by Fund

<u>General</u>	<u>11,452,000</u>	<u>11,452,000</u>
<u>Natural Resources</u>	<u>280,000</u>	<u>280,000</u>

By January 15, 2010, the commissioner shall submit a report evaluating and recommending options to provide for the long-term protection of the state's surface water and groundwater resources and the funding of programs to provide this protection.

\$275,000 the first year and \$275,000 the second year are for grants for up to 50 percent of the cost of implementation of the Red River mediation agreement. The commissioner shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with the grants by January 15, 2012.

\$60,000 the first year and \$60,000 the second year are for a grant to the Mississippi

Headwaters Board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under the board's jurisdiction.

\$5,000 the first year and \$5,000 the second year are for payment to the Leech Lake Band of Chippewa Indians to implement the band's portion of the comprehensive plan for the upper Mississippi.

\$125,000 the first year and \$125,000 the second year are for the construction of ring dikes under Minnesota Statutes, section 103F.161. The ring dikes may be publicly or privately owned. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

By October 1, 2009, the commissioner shall develop a plan for the development of an adequate groundwater level monitoring network of wells in the 11-county metropolitan area. The commissioner, working with the Metropolitan Council, the Department of Homeland Security, and the commissioner of the Pollution Control Agency, shall design the network so that the wells can be used to identify threats to groundwater quality and institute practices to protect the groundwater from degradation. The network must be sufficient to ensure that water use in the metropolitan area does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs. The plan should include recommendations on the necessary payment rates for users of the system expressed in cents per gallon for well drilling, operation, and maintenance.

**Subd. 4. Forest Management**

39,609,000

38,259,000

Appropriations by Fund

<u>General</u>	<u>25,952,000</u>	<u>25,952,000</u>
<u>Natural Resources</u>	<u>12,193,000</u>	<u>11,093,000</u>
<u>Game and Fish</u>	<u>1,464,000</u>	<u>1,214,000</u>

\$2,000,000 each year is to maintain forest management operations. This is a onetime appropriation.

\$1,200,000 the first year and \$950,000 the second year are from the heritage enhancement account in the game and fish fund to maintain and expand the ecological classification system program on state forest lands and prevent the introduction and spread of invasive species on state lands. This is a onetime appropriation.

\$7,217,000 the first year and \$7,217,000 the second year are for prevention, presuppression, and suppression costs of emergency firefighting and other costs incurred under Minnesota Statutes, section 88.12. If the appropriation for either year is insufficient to cover all costs of presuppression and suppression, the amount necessary to pay for these costs during the biennium is appropriated from the general fund.

By January 15 of each year, the commissioner of natural resources shall submit a report to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over environment and natural resources finance, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. These appropriations may not be transferred. Any reimbursement of firefighting expenditures made to the commissioner from any source other than federal mobilizations shall be deposited into the general fund.

\$12,193,000 the first year and \$11,093,000 the second year are from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

\$780,000 the first year and \$780,000 the second year are for the Forest Resources

Council for implementation of the Sustainable Forest Resources Act.

**Subd. 5. Parks and Trails Management** 67,372,000 67,372,000

Appropriations by Fund

<u>General</u>	<u>21,857,000</u>	<u>21,857,000</u>
<u>Natural Resources</u>	<u>43,321,000</u>	<u>43,321,000</u>
<u>Game and Fish</u>	<u>2,194,000</u>	<u>2,194,000</u>

\$1,175,000 the first year and \$1,175,000 the second year are from the water recreation account in the natural resources fund for enhancing public water access facilities. Of this amount, \$100,000 is a onetime appropriation to provide downloadable GPS coordinates and river gauge data interpretation. The base appropriation is \$1,075,000.

The appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 6, from the water recreation account in the natural resources fund for a cooperative project with the United States Army Corps of Engineers to develop the Mississippi Whitewater Park is available until June 30, 2011. The project must be designed to prevent the spread of aquatic invasive species.

\$4,371,000 the first year and \$4,371,000 the second year are from the natural resources fund for state park and recreation area operations. Of this amount, \$375,000 each year is for coordinated activities with Explore Minnesota Tourism. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

\$8,424,000 the first year and \$8,424,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for the snowmobile grants-in-aid program. This additional money may be used for new grant-in-aid trails. Any unencumbered balance does not cancel at the

end of the first year and is available for the second year.

\$400,000 the first year and \$400,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for operation and maintenance of state trails and increased oversight and training for the grant-in-aid program. This is a onetime appropriation.

\$1,360,000 the first year and \$1,360,000 the second year are from the natural resources fund for the off-highway vehicle grants-in-aid program. Of this amount, \$1,110,000 each year is from the all-terrain vehicle account; \$150,000 each year is from the off-highway motorcycle account; and \$100,000 each year is from the off-road vehicle account. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$760,000 the first year and \$760,000 the second year are from the natural resources fund for state trail operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

<b>Subd. 6. Fish and Wildlife Management</b>	<u>67,574,000</u>	<u>67,424,000</u>
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Appropriations by Fund

<u>General</u>	<u>1,340,000</u>	<u>1,340,000</u>
<u>Natural Resources</u>	<u>1,976,000</u>	<u>1,976,000</u>
<u>Game and Fish</u>	<u>64,258,000</u>	<u>64,108,000</u>

\$100,000 the first year and \$100,000 the second year are from the nongame wildlife account in the natural resources fund for gray wolf research.

\$120,000 the first year and \$120,000 the second year from the game and fish fund are for gray wolf management.

\$285,000 the first year and \$285,000 the

second year are from the walleye stamp account in the game and fish fund for the purposes specified under Minnesota Statutes, section 97A.075, subdivision 6. Of this amount, \$25,000 must be spent in the first year to provide signage to each independent licensed dealer for display and promotion of the walleye stamp.

\$600,000 the first year and \$600,000 the second year are to accelerate wildlife health programs. This is a onetime appropriation.

\$1,860,000 the first year and \$1,860,000 the second year are from the wildlife acquisition surcharge account for only the purposes specified in Minnesota Statutes, section 97A.071, subdivision 2a. This appropriation is available until spent.

\$8,167,000 the first year and \$8,167,000 the second year are from the heritage enhancement account in the game and fish fund only for activities specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). Of this amount, at least 20 percent must be used to purchase or restore land, of which over half must be used for restoration. Notwithstanding Minnesota Statutes, section 297A.94, five percent of this appropriation may be used for expanding hunter and angler recruitment and retention. This appropriation may be used to leverage other funds and to provide fish and wildlife technical assistance for shallow lake management and restoration and stream and lake shoreland and habitat improvement and maintenance on private lands.

Notwithstanding Minnesota Statutes, section 84.943, \$13,000 the first year and \$13,000 the second year from the critical habitat private sector matching account may be used to publicize the critical habitat license plate match program.

\$830,000 the first year and \$830,000 the second year are from the trout and salmon management account for only the purposes

specified in Minnesota Statutes, section 97A.075, subdivision 3.

\$1,553,000 the first year and \$1,553,000 the second year are from the deer management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (b).

\$890,000 the first year and \$890,000 the second year are from the deer and bear management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (c).

\$700,000 the first year and \$700,000 the second year are from the waterfowl habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 2.

\$925,000 the first year and \$925,000 the second year are from the pheasant habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 4.

\$192,000 the first year and \$192,000 the second year are from the wild turkey management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 5. Of this amount, \$8,000 the first year and \$8,000 the second year are transferred from the game and fish fund to the wild turkey management account.

\$535,000 the first year and \$535,000 the second year are for preserving, restoring, and enhancing grassland/wetland complexes on public or private lands.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2011, for aquatic restoration grants and wildlife habitat grants are available until June 30, 2012.

**Subd. 7. Ecological Services**

14,175,000

14,175,000

Appropriations by Fund

<u>General</u>	<u>6,230,000</u>	<u>6,230,000</u>
<u>Natural Resources</u>	<u>3,994,000</u>	<u>3,994,000</u>
<u>Game and Fish</u>	<u>3,951,000</u>	<u>3,951,000</u>

\$1,223,000 the first year and \$1,223,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management. Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame wildlife information, education, and promotion.

\$1,636,000 the first year and \$1,636,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$2,142,000 the first year and \$2,142,000 the second year are from the invasive species account, and \$2,090,000 the first year and \$2,090,000 the second year are from the general fund for management, public awareness, assessment and monitoring research, law enforcement, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands. Funds from this appropriation may not be used to purchase or use pesticides suspected by current science of being endocrine disruptors.

The commissioner shall report on the projected outcomes and goals for protecting species in all ecological provinces and the quantity and quality of groundwater and surface water of the state, including but not limited to, protecting rare and endangered species, native prairies, and wetlands, from merging ecological services and waters duties to the senate and house natural resources policy and finance committees and divisions.

The commissioner shall not merge ecological services and waters duties prior to presenting the report to the committees and divisions. Any merger must include a variant of the word "ecology" in the title of the new division.

Subd. 8. Enforcement 31,490,000 31,490,000

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>2,889,000</u>	<u>2,889,000</u>
<u>Natural Resources</u>	<u>8,531,000</u>	<u>8,531,000</u>
<u>Game and Fish</u>	<u>19,970,000</u>	<u>19,970,000</u>
<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>

\$1,082,000 the first year and \$1,082,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety.

\$315,000 the first year and \$315,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for grants to local law enforcement agencies for snowmobile enforcement activities.

\$1,164,000 the first year and \$1,164,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$510,000 the first year and \$510,000 the second year are from the natural resources fund for grants to county law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use in the county. Of this amount, \$498,000 each year is from the all-terrain vehicle account; \$11,000 each year is from the off-highway motorcycle account; and \$1,000 each year is from the off-road vehicle account. The county enforcement agencies may use money received under this appropriation

to make grants to other local enforcement agencies within the county that have a high concentration of off-highway vehicle use. Of this appropriation, \$25,000 each year is for administration of these grants.

\$250,000 the first year and \$250,000 the second year are from the all-terrain vehicle account for grants to qualifying organizations to assist in safety and environmental education and monitoring trails on public lands under Minnesota Statutes, section 84.9011. Grants issued under this paragraph: (1) must be issued through a formal agreement with the organization; and (2) must not be used as a substitute for traditional spending by the organization. By December 15 each year, an organization receiving a grant under this paragraph shall report to the commissioner with details on expenditures and outcomes from the grant. By January 15, 2011, the commissioner shall report on the expenditures and outcomes of the grants to the chairs and ranking minority members of the natural resources policy and finance committees and divisions. Of this appropriation, \$25,000 each year is for administration of these grants.

The commissioner must publicize opportunities for conservation officer employment and recruit, when possible, conservation officer candidates from the biological sciences departments at colleges and universities.

<u>Subd. 9. Operations Support</u>	<u>2,963,000</u>	<u>2,963,000</u>
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<u>Appropriations by Fund</u>		
<u>General</u>	<u>1,340,000</u>	<u>1,340,000</u>
<u>Natural Resources</u>	<u>534,000</u>	<u>534,000</u>
<u>Game and Fish</u>	<u>1,089,000</u>	<u>1,089,000</u>

The commissioner may redirect the general fund reduction of \$800,000 in fiscal year 2010 and \$800,000 in fiscal year 2011, to other subdivisions of this section. No grants

may be reduced. The commissioner shall report by October 1, 2011, to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance regarding any redirection and what department outcomes were affected by the redirection.

\$320,000 the first year and \$320,000 the second year are from the natural resources fund for grants to be divided equally between the city of St. Paul for the Como Zoo and Conservatory and the city of Duluth for the Duluth Zoo. This appropriation is from the revenue deposited to the fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

**Sec. 5. BOARD OF WATER AND SOIL RESOURCES**

\$ 15,618,000 \$ 15,343,000

\$3,900,000 the first year and \$3,900,000 the second year are for natural resources block grants to local governments. The board may reduce the amount of the natural resources block grant to a county by an amount equal to any reduction in the county's general services allocation to a soil and water conservation district from the county's previous year allocation when the board determines that the reduction was disproportionate. Grants must be matched with a combination of local cash or in-kind contributions. The base grant portion related to water planning must be matched by an amount as specified by Minnesota Statutes, section 103B.3369.

\$3,500,000 the first year and \$3,500,000 the second year are for grants requested by soil and water conservation districts for general purposes, nonpoint engineering, and implementation of the reinvest in Minnesota conservation reserve program. Upon approval of the board, expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts. Any district requesting a grant under this paragraph shall maintain a Web page

that publishes, at a minimum, its annual plan, annual report, annual audit, annual budget, including membership dues, and meeting notices and minutes.

\$500,000 the first year and \$500,000 the second year are for feedlot water quality grants for feedlots under 300 animal units where there are impaired waters.

\$2,000,000 the first year and \$2,000,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control, water quality management, of which at least \$900,000 each year is for establishing and maintaining riparian vegetation buffers of restored native prairie and restored prairie.

\$100,000 the first year and \$100,000 the second year are available for county cooperative weed management programs and to restore native plants in selected invasive species management sites by providing local native seeds and plants to landowners for implementation.

Notwithstanding Minnesota Statutes, section 103C.501, the board may shift cost-share funds in this section and may adjust the technical and administrative assistance portion of the grant funds to leverage federal or other nonstate funds or to address high-priority needs identified in local water management plans.

\$500,000 the first year and \$500,000 the second year are for implementation and enforcement of the Wetland Conservation Act. The board must make available information about final enforcement actions on the board's Web site.

\$60,000 each year is for staff to monitor and enforce wetland replacement, wetland bank sites, and the Wetland Conservation Act. The board must include in its biennial report to the legislature information on all state and local units of government, including special

purpose districts and impacts on wetlands in the state. This information must be made available on the board's Web site.

\$100,000 each year is for transfer to the commissioner of natural resources for enforcement of wetland violations.

\$100,000 each year is to make grants to local units of government within the 11-county metropolitan area to improve response to major wetland violations.

\$100,000 each year is for cost-share grants to local governments for public drainage records modernization.

\$212,000 each year is to provide assistance to local drainage management officials and for the costs of the Drainage Work Group.

\$90,000 the first year and \$90,000 the second year are for a grant to the Red River Basin Commission for water quality and floodplain management, including administration of programs. The commission shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with this appropriation by January 15, 2012. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

\$90,000 each year is to the Minnesota River Basin Joint Powers Board, also known as the Minnesota River Board, for operating expenses to measure and report the results of projects in the 12 major watersheds within the Minnesota River basin.

\$130,000 each year is for grants to Area II, Minnesota River Basin Projects, for floodplain management, including administration of programs.

Notwithstanding Minnesota Statutes, section 103C.501, a balance in the board's cost-share program is available for \$150,000 each year



<u>General</u>	<u>3,810,000</u>	<u>3,810,000</u>
<u>Natural Resources</u>	<u>5,070,000</u>	<u>5,070,000</u>

\$3,810,000 the first year and \$3,810,000 the second year are for metropolitan area regional parks operation and maintenance according to Minnesota Statutes, section 473.351.

\$5,070,000 the first year and \$5,070,000 the second year are from the natural resources fund for metropolitan area regional parks and trails maintenance and operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (3).

Sec. 7. MINNESOTA CONSERVATION CORPS      \$                      945,000 \$                      945,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>455,000</u>	<u>455,000</u>
<u>Natural Resources</u>	<u>490,000</u>	<u>490,000</u>

The Minnesota Conservation Corps may receive money appropriated from the natural resources fund under this section only as provided in an agreement with the commissioner of natural resources.

Sec. 8. ZOOLOGICAL BOARD                      \$                      6,728,000 \$                      6,728,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>6,568,000</u>	<u>6,568,000</u>
<u>Natural Resources</u>	<u>160,000</u>	<u>160,000</u>

\$160,000 the first year and \$160,000 the second year are from the natural resources fund from the revenue deposited under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 9. SCIENCE MUSEUM OF MINNESOTA      \$                      1,187,000 \$                      1,187,000

Sec. 10. Minnesota Statutes 2008, section 84.0835, subdivision 3, is amended to read:

Subd. 3. **Citation authority.** Employees designated by the commissioner under subdivision 1 may issue citations, as specifically authorized under this subdivision, for violations of:

(1) sections 85.052, subdivision 3 (payment of camping fees in state parks), 85.45, subdivision 1 (cross-country ski pass), ~~and 85.46 (horse trail pass), and 84.9275 (nonresident all-terrain vehicle state trail pass);~~

(2) rules relating to hours and days of operation, restricted areas, noise, fireworks, environmental protection, fires and refuse, pets, picnicking, camping and dispersed camping, nonmotorized uses, construction of unauthorized permanent trails, mooring of boats, fish cleaning, swimming, storage and abandonment of personal property, structures and stands, animal trespass, state park individual and group motor vehicle permits, licensed motor vehicles, designated roads, and snowmobile operation off trails;

(3) rules relating to off-highway vehicle registration, display of registration numbers, required equipment, operation restrictions, off-trail use for hunting and trapping, and operation in lakes, rivers, and streams;

(4) rules relating to off-highway vehicle and snowmobile operation causing damage or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

(5) rules relating to parking, snow removal, and damage on state forest roads; and

(6) rules relating to controlled hunting zones on major wildlife management units.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

**Sec. 11. [84.0854] GIFT CARD AND CERTIFICATE SALES; RECEIPTS; TRANSFERS; APPROPRIATION.**

Subdivision 1. **Sales authorized; gift cards and certificates.** The commissioner may sell gift cards and certificates that can be used to purchase licenses, permits, products, or services sold by the commissioner. Gift cards and certificates are valid until they are redeemed. The commissioner may advertise the availability of this program and items offered for sale under this section. The commissioner may make the purchase and redemption of gift cards available electronically.

Subd. 2. **Receipts; disposition.** Proceeds of gift card and certificate sales shall be deposited in an account in the special revenue fund. When gift cards or certificates are redeemed, funds shall be transferred to the appropriate account or fund based on the license, permit, product, or service purchased. Money in the gift card and certificate account shall accrue interest, which shall be credited to the account. Interest on funds in the account is appropriated to the commissioner to help cover the cost of administering the gift card and certificate program. Money from gift cards and certificates sold but unredeemed after three years shall be transferred to the various accounts and funds receiving revenue from purchases of licenses, permits, products, or services purchased with gift card or certificate redemptions in the last two fiscal years. Unredeemed funds shall be distributed based on the dollar value of cards redeemed for the various licenses, permits, products, or services on a pro rata basis.

Subd. 3. **Exemption from rulemaking.** This section is not subject to the rulemaking provisions

of chapter 14 and section 14.386 does not apply.

Sec. 12. Minnesota Statutes 2008, section 84.415, subdivision 5, is amended to read:

Subd. 5. **Fee Fees; disposition.** (a) In the event the construction of ~~such~~ lines causes damage to timber or other property of the state on or along the same, the license or permit shall also provide for payment to the commissioner of finance of the amount ~~thereof~~ of the damages as may be determined by the commissioner.

(b) The application fee specified in Minnesota Rules is credited to the general fund.

~~All money received under such licenses or permits~~ (c) The utility crossing fees specified in Minnesota Rules shall be credited to the fund to which other income or proceeds of sale from ~~such~~ the land would be credited, if provision therefor be made as provided by law, otherwise to the general fund.

(d) Money received from licenses and permits issued under this section for use of the beds of navigable waters shall be credited to the permanent school fund.

(e) Money received under subdivision 6 must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the costs incurred for issuing and monitoring utility licenses.

Sec. 13. Minnesota Statutes 2008, section 84.415, is amended by adding a subdivision to read:

Subd. 6. **Supplemental application fee and monitoring fee.** (a) In addition to the application fee and utility crossing fees specified in Minnesota Rules, the commissioner of natural resources shall assess the applicant for a utility license the following fees:

(1) a supplemental application fee of \$1,500 for a public water crossing license and a supplemental application fee of \$4,500 for a public lands crossing license, to cover reasonable costs for reviewing the application and preparing the license; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the utility line and preparing special terms and conditions of the license to ensure proper construction. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(b) The applicant shall pay fees under this subdivision to the commissioner of natural resources. The commissioner shall not issue the license until the applicant has paid all fees in full.

(c) Upon completion of construction of the improvement for which the license or permit was issued, the commissioner shall refund the unobligated balance from the monitoring fee revenue. The commissioner shall not return the application fees, even if the application is withdrawn or denied.

Sec. 14. Minnesota Statutes 2008, section 84.63, is amended to read:

#### **84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE AND FEDERAL GOVERNMENTS.**

(a) Notwithstanding any existing law to the contrary, the commissioner of natural resources is hereby authorized on behalf of the state to convey to the United States or to the state of Minnesota

or any of its subdivisions, upon state-owned lands under the administration of the commissioner of natural resources, permanent or temporary easements for specified periods or otherwise for trails, highways, roads including limitation of right of access from the lands to adjacent highways and roads, flowage for development of fish and game resources, stream protection, flood control, and necessary appurtenances thereto, such conveyances to be made upon such terms and conditions including provision for reversion in the event of non-user as the commissioner of natural resources may determine.

(b) In addition to the fee for the market value of the easement, the commissioner of natural resources shall assess the applicant the following fees:

(1) an application fee of \$2,000 to cover reasonable costs for reviewing the application and preparing the easement; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the improvement for which the easement was conveyed and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(c) The applicant shall pay these fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

(d) Upon completion of construction of the improvement for which the easement was conveyed, the commissioner shall refund the unobligated balance from the monitoring fee revenue. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(e) Money received under paragraph (b) must be deposited in the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred for issuing and monitoring easements.

Sec. 15. Minnesota Statutes 2008, section 84.631, is amended to read:

**84.631 ROAD EASEMENTS ACROSS STATE LANDS.**

(a) Except as provided in section 85.015, subdivision 1b, the commissioner, on behalf of the state, may convey a road easement across state land under the commissioner's jurisdiction other than school trust land, to a private person requesting an easement for access to property owned by the person only if the following requirements are met: (1) there are no reasonable alternatives to obtain access to the property; and (2) the exercise of the easement will not cause significant adverse environmental or natural resource management impacts.

(b) The commissioner shall:

(1) require the applicant to pay the market value of the easement;

(2) provide that the easement reverts to the state in the event of nonuse; and

(3) impose other terms and conditions of use as necessary and appropriate under the circumstances.

(c) An applicant shall submit a an application fee of up to \$2,000 with each application for a road

easement across state land. ~~The commissioner must give the applicant an estimate of the costs of the road easement before the applicant submits the fee.~~ The application fee is nonrefundable, even if the application is withdrawn or denied.

(d) In addition to the payment for the market value of the easement and the application fee, the commissioner of natural resources shall assess the applicant a monitoring fee to cover the projected reasonable costs for monitoring the construction of the road and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee. The applicant shall pay the application and monitoring fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

(e) Upon completion of construction of the road, the commissioner shall refund the unobligated balance from the monitoring fee revenue.

(f) Fees collected under ~~paragraph~~ paragraphs (c) and (d) must be deposited in credited to the land management account in the natural resources fund and are appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 16. Minnesota Statutes 2008, section 84.632, is amended to read:

**84.632 CONVEYANCE OF UNNEEDED STATE EASEMENTS.**

(a) Notwithstanding section 92.45, the commissioner of natural resources may, in the name of the state, release all or part of an easement acquired by the state upon application of a landowner whose property is burdened with the easement if the easement is not needed for state purposes.

(b) All or part of an easement may be released by payment of ~~consideration of not less than \$500, to be determined by the commissioner~~ the market value of the easement. The release must be in a form approved by the attorney general.

(c) Money received ~~for release of the easement~~ under paragraph (b) must be credited to the account from which money was expended for purchase of the easement. If there is no specific account, the money must be credited to the land acquisition account established in section 94.165.

(d) In addition to payment under paragraph (b), the commissioner of natural resources shall assess a landowner who applies for a release under this section an application fee of \$2,000 for reviewing the application and preparing the release of easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the release of easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(e) Money received under paragraph (d) must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 17. Minnesota Statutes 2008, section 84.922, subdivision 1a, is amended to read:

Subd. 1a. **Exemptions.** All-terrain vehicles exempt from registration are:

(1) vehicles owned and used by the United States, the state, another state, or a political

subdivision;

(2) vehicles registered in another state or country that have not been in this state for more than 30 consecutive days;

(3) vehicles that:

(i) are owned by a resident of another state or country that does not require registration of all-terrain vehicles;

(ii) have not been in this state for more than 30 consecutive days; and

(iii) are operated on state and grant-in-aid trails by a nonresident possessing a nonresident all-terrain vehicle state trail pass;

~~(3)~~ (4) vehicles used exclusively in organized track racing events; and

(4) (5) vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 18. **[84.9275] NONRESIDENT ALL-TERRAIN VEHICLE STATE TRAIL PASS.**

Subdivision 1. **Pass required; fee.** (a) A nonresident may not operate an all-terrain vehicle on a state or grant-in-aid all-terrain vehicle trail unless the operator carries a valid nonresident all-terrain vehicle state trail pass in immediate possession. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835.

(b) The commissioner of natural resources shall issue a pass upon application and payment of a \$20 fee. The pass is valid from January 1 through December 31. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the all-terrain vehicle account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid to counties and municipalities for all-terrain vehicle organizations to construct and maintain all-terrain vehicle trails and use areas.

(c) A nonresident all-terrain vehicle state trail pass is not required for:

(1) an all-terrain vehicle that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.922, subdivision 1a; or

(2) a person operating an all-terrain vehicle only on the portion of a trail that is owned by the person or the person's spouse, child, or parent.

Subd. 2. **License agents.** The commissioner may appoint agents to issue and sell nonresident all-terrain vehicle state trail passes. The commissioner may revoke the appointment of an agent at any time. The commissioner may adopt additional rules as provided in section 97A.485, subdivision 11. An agent shall observe all rules adopted by the commissioner for accounting and handling of passes pursuant to section 97A.485, subdivision 11. An agent shall promptly deposit and remit all money received from the sale of the passes, exclusive of the issuing fee, to the commissioner.

Subd. 3. **Issuance of passes.** The commissioner and agents shall issue and sell nonresident

all-terrain vehicle state trail passes. The commissioner shall also make the passes available through the electronic licensing system established under section 84.027, subdivision 15.

Subd. 4. **Agent's fee.** In addition to the fee for a pass, an issuing fee of \$1 per pass shall be charged. The issuing fee may be retained by the seller of the pass. Issuing fees for passes issued by the commissioner shall be deposited in the all-terrain vehicle account in the natural resources fund and retained for the operation of the electronic licensing system.

Subd. 5. **Duplicate passes.** The commissioner and agents shall issue a duplicate pass to persons whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate nonresident all-terrain vehicle state trail pass is \$2, with an issuing fee of 50 cents.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 19. Minnesota Statutes 2008, section 84D.15, subdivision 2, is amended to read:

Subd. 2. **Receipts.** Money received from surcharges on watercraft licenses under section 86B.415, subdivision 7, and civil penalties under section 84D.13 shall be deposited in the invasive species account. Each year, the commissioner of finance shall transfer from the game and fish fund to the invasive species account, the annual surcharge collected on nonresident fishing licenses under section 97A.475, subdivision 7, paragraph (b). In fiscal years 2010 and 2011, the commissioner of finance shall transfer \$725,000 from the water recreation account under section 86B.706 to the invasive species account.

Sec. 20. Minnesota Statutes 2008, section 85.015, subdivision 1b, is amended to read:

Subd. 1b. **Easements for ingress and egress.** (a) Notwithstanding section 16A.695, except as provided in paragraph (b), when a trail is established under this section, a private property owner who has a preexisting right of ingress and egress over the trail right-of-way is granted, without charge, a permanent easement for ingress and egress purposes only. The easement is limited to the preexisting crossing and reverts to the state upon abandonment. Nothing in this subdivision is intended to diminish or alter any written or recorded easement that existed before the state acquired the land for the trail.

(b) The commissioner of natural resources shall assess the applicant an application fee of \$2,000 for reviewing the application and preparing the easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(c) Money received under paragraph (b) must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 21. Minnesota Statutes 2008, section 85.053, subdivision 10, is amended to read:

Subd. 10. **Free entrance; totally and permanently disabled veterans.** The commissioner shall issue an annual park permit for no charge ~~for~~ to any veteran with a total and permanent service-connected disability, as determined by the United States Department of Veterans Affairs, who presents each year a copy of their determination letter to a park attendant or commissioner's

designee. For the purposes of this section, "~~veteran with a total and permanent service-connected disability~~" means ~~a resident who has a total and permanent 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~~ has the meaning given in section 197.447.

**EFFECTIVE DATE.** This section is effective July 1, 2009, for state park permits issued on or after that date.

Sec. 22. Minnesota Statutes 2008, section 85.46, subdivision 3, is amended to read:

Subd. 3. **Issuance.** The commissioner of natural resources and agents shall issue and sell horse trail passes. The pass shall include the applicant's signature and other information deemed necessary by the commissioner. To be valid, a daily or annual pass must be signed by the person riding, leading, or driving the horse, and a commercial annual pass must be signed by the owner of the commercial trail riding facility.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 23. Minnesota Statutes 2008, section 85.46, subdivision 4, is amended to read:

Subd. 4. **Pass fees.** (a) The fee for an annual horse trail pass is \$20 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. Annual passes are valid for one year beginning January 1 and ending December 31.

(b) The fee for a daily horse trail pass is \$4 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. The daily pass is valid only for the date designated on the pass form.

(c) The fee for a commercial annual horse trail pass is \$200 and includes issuance of 15 passes. Additional or individual commercial annual horse trail passes may be purchased by the commercial trail riding facility owner at a fee of \$20 each. Commercial annual horse trail passes are valid for one year beginning January 1 and ending December 31 and may be affixed to the horse tack, saddle, or person. Commercial annual horse trail passes are not transferable to another commercial trail riding facility. For the purposes of this section, a "commercial trail riding facility" is an operation where horses are used for riding instruction or other equestrian activities for hire or use by others.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 24. Minnesota Statutes 2008, section 85.46, subdivision 7, is amended to read:

Subd. 7. **Duplicate horse trail passes.** The commissioner of natural resources and agents shall issue a duplicate pass to a person or commercial trail riding facility owner whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate horse trail pass is \$2, with an issuing fee of 50 cents.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

**Sec. 25. [86A.055] PROHIBITION ON SALES OF OUTDOOR RECREATION SYSTEM LANDS FOR CERTAIN PURPOSES.**

Notwithstanding Laws 2005, chapter 156, article 2, section 45, as amended by Laws 2007, chapter 148, article 2, section 73, or other law to the contrary, a state agency shall not sell land

that, on or after the effective date of this section, is classified as a unit of the outdoor recreation system under section 86A.05, for the purpose of anticipated savings to the general fund.

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

Sec. 26. Minnesota Statutes 2008, section 92.685, is amended to read:

**92.685 LAND MANAGEMENT ACCOUNT.**

The land management account is created in the natural resources fund. Money credited to the account is appropriated annually to the commissioner of natural resources ~~for the Lands and Minerals Division~~ to administer the utility easement program under section 84.415, the easement program under section 84.63, the road easement program under section 84.631, the easement release program under section 84.632, and the trail easement program under section 85.015, subdivision 1b.

Sec. 27. Minnesota Statutes 2008, section 93.481, subdivision 1, is amended to read:

Subdivision 1. **Prohibition against mining without permit; application for permit.** Except as provided in this subdivision, after June 30, 1975, no person shall engage in or carry out a mining operation for metallic minerals within the state unless the person has first obtained a permit to mine from the commissioner. Any person engaging in or carrying out a mining operation as of the effective date of the rules ~~promulgated~~ adopted under section 93.47 shall apply for a permit to mine within 180 days after the effective date of such rules. Any such existing mining operation may continue during the pendency of the application for the permit to mine. The person applying for a permit shall apply on forms prescribed by the commissioner and shall submit such information as the commissioner may require, including but not limited to the following:

~~(a)~~ (1) a proposed plan for the reclamation or restoration, or both, of any mining area affected by mining operations to be conducted on and after the date on which permits are required for mining under this section;

~~(b)~~ (2) a certificate issued by an insurance company authorized to do business in the United States that the applicant has a public liability insurance policy in force for the mining operation for which the permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation;

(3) an application fee of:

(i) \$25,000 for a permit to mine for a taconite mining operation;

(ii) \$50,000 for a permit to mine for a nonferrous metallic minerals operation;

(iii) \$10,000 for a permit to mine for a scam mining operation; or

(iv) \$5,000 for a permit to mine for a peat operation;

~~(e)~~ (4) a bond which may be required pursuant to section 93.49; and

~~(d)~~ (5) a copy of the applicant's advertisement of the ownership, location, and boundaries of

the proposed mining area and reclamation or restoration operations, which advertisement shall be published in a legal newspaper in the locality of the proposed site at least once a week for four successive weeks before the application is filed, except that if the application is for a permit to conduct lean ore stockpile removal the advertisement need be published only once.

Sec. 28. Minnesota Statutes 2008, section 93.481, subdivision 3, is amended to read:

Subd. 3. **Term of permit; amendment.** A permit issued by the commissioner pursuant to this section shall be granted for the term determined necessary by the commissioner for the completion of the proposed mining operation, including reclamation or restoration. A permit may be amended upon written application to the commissioner. A permit amendment application fee must be submitted with the written application. The permit amendment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine. If the commissioner determines that the proposed amendment constitutes a substantial change to the permit, the person applying for the amendment shall publish notice in the same manner as for a new permit, and a hearing shall be held if written objections are received in the same manner as for a new permit. An amendment may be granted by the commissioner if the commissioner determines that lawful requirements have been met.

Sec. 29. Minnesota Statutes 2008, section 93.481, subdivision 5, is amended to read:

Subd. 5. **Assignment.** A permit may not be assigned or otherwise transferred without the written approval of the commissioner. A permit assignment application fee must be submitted with the written application. The permit assignment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine.

Sec. 30. Minnesota Statutes 2008, section 93.481, subdivision 7, is amended to read:

Subd. 7. **Mining administration account.** The mining administration account is established as an account in the natural resources fund. ~~Ferrous mining administrative~~ Fees charged to owners, operators, or managers of mines under this section and section 93.482 shall be credited to the account and may be appropriated to the commissioner to cover the costs of providing and monitoring permits to mine ~~ferrous metals under this section.~~ Earnings accruing from investment of the account remain with the account until appropriated.

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

Sec. 31. **[93.482] RECLAMATION FEES.**

Subdivision 1. **Annual permit to mine fee.** (a) The commissioner shall charge every person holding a permit to mine an annual permit fee. The fee is payable to the commissioner by June 30 of each year, beginning in 2009.

(b) The annual permit to mine fee for a taconite mining operation is \$60,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$30,000 if there was no production within the immediately preceding calendar year.

(c) The annual permit to mine fee for a nonferrous metallic minerals mining operation is \$75,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$37,500 if there was no production within the immediately preceding calendar year.

(d) The annual permit to mine fee for a scam mining operation is \$5,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$2,500 if there was no production within the immediately preceding calendar year.

(e) The annual permit to mine fee for a peat mining operation is \$1,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$500 if there was no production within the immediately preceding calendar year.

**Subd. 2. Supplemental application fee for taconite and nonferrous metallic minerals mining operation.** (a) In addition to the application fee specified in section 93.481, the commissioner shall assess a person submitting an application for a permit to mine for a taconite or a nonferrous metallic minerals mining operation the reasonable costs for reviewing the application and preparing the permit to mine. For nonferrous metallic minerals mining, the commissioner shall assess reasonable costs for monitoring construction of the mining facilities.

(b) The commissioner must give the applicant an estimate of the supplemental application fee under this subdivision. The estimate must include a brief description of the tasks to be performed and the estimated cost of each task. The application fee under section 93.481 must be subtracted from the estimate of costs to determine the supplemental application fee.

(c) The applicant and the commissioner shall enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

(d) The commissioner shall not issue the permit to mine until the applicant has paid all fees in full. Upon completion of construction of a nonferrous metallic minerals facility, the commissioner shall refund the unobligated balance of the monitoring fee revenue.

**Subd. 3. Reclamation fee on taconite iron ore produced.** (a) For the purposes of this subdivision:

(1) "fee owner" means a person having any right, title, or interest in any minerals or mineral rights in this state from which taconite iron ore is mined. Fee owner does not include the United States, the state, or the University of Minnesota;

(2) "taconite iron ore" means a ferruginous chert or ferruginous slate in the form of compact siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron bearing particles of merchantable grade are smaller than 20 mesh; and

(3) "ton" means a gross ton of 2,240 pounds.

(b) A fee owner is subject to a reclamation fee of \$.0075 per ton of taconite iron ore mined from the minerals or mineral rights owned by the fee owner.

(c) The fee owner shall make payment to the commissioner no later than January 20 of each calendar year for ore removed during the previous calendar year. The fee owner is liable for the payment of the reclamation fee. The fee owner may enter into an agreement with the mining operator to make the payment on their behalf from royalties due and owing or other financial terms.

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

Sec. 32. Minnesota Statutes 2008, section 94.342, subdivision 3, is amended to read:

Subd. 3. **Additional restrictions on riparian land.** (a) Land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law is riparian land. Riparian land may not be given in exchange unless:

(1) expressly authorized by the legislature ~~or unless;~~

(2) through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public;

(3) Class A land is being exchanged for Class A land; or

~~provided, that any~~ (4) the exchange with is an agency of the United States or any agency thereof ~~may be made free from this limitation upon condition that~~ and the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by section 92.45, unless waived as provided in ~~this subdivision~~ paragraph (b), and that there shall be reserved by the state ~~such~~ additional rights of public use upon suitable portions of ~~such~~ state land as the commissioner of natural resources, with the approval of the Land Exchange Board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses.

~~In regard to~~ (b) For Class B or riparian land that is contained within that portion of the Superior National Forest that is designated as the Boundary Waters Canoe Area Wilderness, the condition that state land given in exchange bordering on public waters must be subject to the public travel reservations provided in section 92.45, may be waived by the Land Exchange Board upon the recommendation of the commissioner of natural resources and, if the land is Class B land, the additional recommendation of the county board in which the land is located.

Sec. 33. Minnesota Statutes 2008, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (5), (6), (7), (11), (13), (15), (16), and (17), and 3, clauses (2), (3), (4), (9), (11), (12), and (13), and licenses issued under section 97B.301, subdivision 4.

(b) \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. ~~When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first time, \$750,000 is canceled to the unappropriated balance~~

~~of the game and fish fund.~~ The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

~~Thereafter,~~ When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

Sec. 34. Minnesota Statutes 2008, section 103G.271, subdivision 6, is amended to read:

Subd. 6. **Water use permit processing fee.** (a) Except as described in paragraphs (b) to (f), a water use permit processing fee must be prescribed by the commissioner in accordance with the schedule of fees in this subdivision for each water use permit in force at any time during the year. The schedule is as follows, with the stated fee in each clause applied to the total amount appropriated:

- (1) \$140 for amounts not exceeding 50,000,000 gallons per year;
- (2) \$3.50 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;
- (3) \$4 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year;
- (4) \$4.50 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;
- (5) \$5 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;
- (6) \$5.50 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;
- (7) \$6 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;
- (8) \$6.50 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year;
- (9) \$7 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but less than 450,000,000 gallons per year;
- (10) \$7.50 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but less than 500,000,000 gallons per year; and
- (11) \$8 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

(b) For once-through cooling systems, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

- (1) for nonprofit corporations and school districts, \$200 per 1,000,000 gallons; and

(2) for all other users, \$420 per 1,000,000 gallons.

(c) The fee is payable based on the amount of water appropriated during the year and, except as provided in paragraph (f), the minimum fee is \$100.

(d) For water use processing fees other than once-through cooling systems:

(1) the fee for a city of the first class may not exceed \$250,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) ~~\$50,000~~ \$60,000 per year for an entity holding three or fewer permits;

(ii) ~~\$75,000~~ \$90,000 per year for an entity holding four or five permits;

(iii) ~~\$250,000~~ \$300,000 per year for an entity holding more than five permits;

(3) the fee for agricultural irrigation may not exceed \$750 per year;

(4) the fee for a municipality that furnishes electric service and cogenerates steam for home heating may not exceed \$10,000 for its permit for water use related to the cogeneration of electricity and steam; and

(5) no fee is required for a project involving the appropriation of surface water to prevent flood damage or to remove flood waters during a period of flooding, as determined by the commissioner.

(e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due. A fee may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal governmental agency holding a water appropriation permit.

(f) The minimum water use processing fee for a permit issued for irrigation of agricultural land is \$20 for years in which:

(1) there is no appropriation of water under the permit; or

(2) the permit is suspended for more than seven consecutive days between May 1 and October 1.

(g) A surcharge of ~~\$20~~ \$30 per million gallons in addition to the fee prescribed in paragraph (a) shall be applied to the volume of water used in each of the months of June, July, and August that exceeds the volume of water used in January for municipal water use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities with more than one permit shall be determined based on the total appropriations from all permits that supply a common distribution system.

Sec. 35. Minnesota Statutes 2008, section 103G.301, subdivision 2, is amended to read:

Subd. 2. **Permit application fees.** (a) A permit application fee to defray the costs of receiving, recording, and processing the application must be paid for a permit authorized under this chapter and for each request to amend or transfer an existing permit. Fees established under this subdivision, unless specified in paragraph (c), shall be compliant with section 16A.1285.

(b) ~~The fee for a project appropriating~~ Proposed projects that require water in excess of 100 million gallons per year must be assessed fees to recover the ~~reasonable~~ costs of ~~preparing and~~

~~processing the permit, including costs~~ incurred to evaluate the project and the costs incurred for environmental review. Fees collected under this paragraph must be credited to an account in the natural resources fund and are appropriated to the commissioner ~~for fiscal years 2008 and 2009.~~

(c) The fee to apply for a permit to appropriate water, ~~other than a permit subject to the in~~ addition to any fee under paragraph (b); a permit to construct or repair a dam that is subject to dam safety inspection; or a state general permit ~~or to apply for the state water bank program~~ is \$150. The application fee for a permit to work in public waters or to divert waters for mining must be at least \$150, but not more than \$1,000, ~~according to a schedule of fees adopted under section 16A.1285.~~

Sec. 36. Minnesota Statutes 2008, section 103G.301, subdivision 3, is amended to read:

Subd. 3. **Field inspection fees.** (a) In addition to the application fee, the commissioner may charge a field inspection fee for:

- (1) projects requiring a mandatory environmental assessment under chapter 116D;
- (2) projects undertaken without a required permit or application; and
- (3) projects undertaken in excess of limitations established in an issued permit.

(b) The fee must be at least \$100 but not more than actual inspection costs.

(c) The fee is to cover actual costs related to a permit applied for under this chapter or for a project undertaken without proper authorization.

(d) The commissioner shall establish a schedule of field inspection fees under section 16A.1285. The schedule must include actual costs related to field inspection, including investigations of the area affected by the proposed activity, analysis of the proposed activity, consultant services, and subsequent monitoring, if any, of the activity authorized by the permit. Fees collected under this subdivision must be credited to an account in the natural resources fund and are appropriated to the commissioner.

Sec. 37. Minnesota Statutes 2008, section 115.03, subdivision 5c, is amended to read:

Subd. 5c. **Regulation of storm water discharges.** (a) The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after May 29, 2003.

(c) The agency shall develop performance standards, design standards, or other tools to enable and promote the implementation of low-impact development and other storm water management techniques. For the purposes of this section, "low-impact development" means an approach to storm water management that mimics a site's natural hydrology as the landscape is developed. Using the low-impact development approach, storm water is managed on-site and the rate and volume of predevelopment storm water reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation.

Sec. 38. Minnesota Statutes 2008, section 115.073, is amended to read:

**115.073 ENFORCEMENT FUNDING.**

Except as provided in section 115C.05, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, ~~up to the amount appropriated for implementation of Laws 1991, chapter 347,~~ must be deposited in the state treasury and credited to the environmental fund.

Sec. 39. Minnesota Statutes 2008, section 115.56, subdivision 4, is amended to read:

Subd. 4. **License fee.** (a) Until the agency adopts a final rule establishing fees for licenses under subdivision 2, the fee for a license required under subdivision 2 is \$100 \$200 per year and the annual license fee for a business with multiple licenses shall not exceed \$400.

(b) Revenue from the any fees charged by the agency for licenses under subdivision 2 must be credited to the environmental fund and is exempt from section 16A.1285.

Sec. 40. Minnesota Statutes 2008, section 115.77, subdivision 1, is amended to read:

Subdivision 1. ~~**Fees established.** The following fees are established for the purposes indicated:~~ agency shall collect fees in amounts necessary, but no greater than the amounts necessary, to cover the reasonable costs of reviewing applications and issuing certifications.

- ~~(1) application for examination, \$32;~~
- ~~(2) issuance of certificate, \$23;~~
- ~~(3) reexamination resulting from failure to pass an examination, \$32;~~
- ~~(4) renewal of certificate, \$23;~~
- ~~(5) replacement certificate, \$10; and~~
- ~~(6) reinstatement or reciprocity certificate, \$40.~~

Sec. 41. Minnesota Statutes 2008, section 115A.1314, subdivision 2, is amended to read:

Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account. Beginning in the second program year and continuing each program year thereafter, as of the last day of each program year, the commissioner of revenue shall determine the total amount of the variable fees that were collected. ~~By July 15, 2009, and each July 15 thereafter, the commissioner of the Pollution Control Agency shall inform the commissioner of revenue of the amount necessary to operate the program in the new program year.~~ To the extent that the total fees collected by the commissioner of revenue in connection with this section exceed the amount the commissioner of the Pollution Control Agency determines necessary to operate the program for the new program year, the commissioner of revenue shall refund on a pro rata basis, to all manufacturers who paid any fees for the previous program year, the amount of fees collected by the commissioner of revenue in excess of the amount

necessary to operate the program for the new program year. No individual refund is required of amounts of \$100 or less for a fiscal year. Manufacturers who report collections less than 50 percent of their obligation for the previous program year are not eligible for a refund. ~~Amounts not refunded pursuant to this paragraph shall remain in the account. The commissioner of revenue shall issue refunds by August 10. In lieu of issuing a refund, the commissioner of revenue may grant credit against a manufacturer's variable fee due by September 1.~~

(b) Until June 30, ~~2009~~ 2011, money in the account is annually appropriated to the Pollution Control Agency:

(1) for the purpose of implementing sections 115A.1312 to 115A.1330, including transfer to the commissioner of revenue to carry out the department's duties under section 115A.1320, subdivision 2, and transfer to the commissioner of administration for responsibilities under section 115A.1324; and

(2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with counties outside the 11-county metropolitan area, as defined in paragraph (c), and with private entities that collect for recycling covered electronic devices in counties outside the 11-county metropolitan area, where the collection and recycling is consistent with the respective county's solid waste plan, for the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause, the commissioner must give preference to counties and private entities that are working cooperatively with manufacturers to help them meet their recycling obligations under section 115A.1318, subdivision 1.

(c) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Sec. 42. Minnesota Statutes 2008, section 115A.557, subdivision 1, is amended to read:

Subdivision 1. **Distribution; formula.** Any funds appropriated to the commissioner for the purpose of distribution to counties under this section must be distributed each fiscal year by the commissioner based on population, except a county may not receive less than \$55,000 in a fiscal year. If the amount available for distribution under this section is less or more than the amount available in fiscal year 2001, the minimum county payment under this section is reduced or increased proportionately. For purposes of this subdivision, "population" has the definition given in section 477A.011, subdivision 3. A county that participates in a multicounty district that manages solid waste and that has responsibility for recycling programs as authorized in section 115A.552, must pass through to the districts funds received by the county in excess of the minimum county payment under this section in proportion to the population of the county served by that district.

Sec. 43. [115A.559] COMPOSTING COMPETITIVE GRANT PROGRAM.

Subdivision 1. Grant program established. The commissioner shall make competitive grants to political subdivisions to increase composting, reduce the amount of organic wastes entering disposal facilities, and reduce the costs associated with hauling waste by locating the composting site as close as possible to the site where the waste is generated. To achieve the purpose of the grant program, the commissioner shall actively recruit potential applicants beyond traditional solid waste professionals and organizations, such as soil and water conservation districts and schools. Each grant must include an educational component on the methods and benefits of composting.

Subd. 2. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section.

(b) The determination of whether to make a grant under this section is within the discretion of the commissioner, subject to subdivision 4. The commissioner's decisions are not subject to judicial review, except for abuse of discretion.

Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the available appropriations, grants must be made for projects that, in the commissioner's judgment, provide the highest return in public benefits.

(b) To be eligible to receive a grant, a project must:

(1) be locally administered;

(2) have measurable outcomes; and

(3) include at least one of the following elements:

(i) the development of erosion control methods that use compost;

(ii) activities to encourage on-site composting by homeowners; or

(iii) activities to encourage composting by schools or public institutions.

Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

Sec. 44. Minnesota Statutes 2008, section 115A.931, is amended to read:

**115A.931 YARD WASTE PROHIBITION.**

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of reuse, composting, or cocomposting.

(b) [Renumbered 115A.03, subd 38]

(c) On or after January 1, 2010, a person may not place yard waste or source-separated compostable materials generated in a metropolitan county in a plastic bag delivered to a transfer station or compost facility unless the bag meets all the specifications in ASTM Standard Specification for Compostable Plastics (D6400). For purposes of this paragraph, "metropolitan county" has the meaning given in section 473.121, subdivision 4, and "ASTM" has the meaning given in section 296A.01, subdivision 6.

(d) A person who immediately empties a plastic bag containing yard waste or source-separated compostable materials delivered to a transfer station or compost facility and removes the plastic bag from the transfer station or compost facility is exempt from paragraph (c).

(e) Residents of a city of the first class that currently contracts for the collection of yard waste are exempt from paragraph (c) until January 1, 2013, if, by that date, the city implements a citywide source-separated compostable materials collection program using durable carts.

Sec. 45. Minnesota Statutes 2008, section 116.0711, is amended to read:

**116.0711 FEEDLOT ~~PERMIT CONDITIONS~~ PERMITS; CONDITIONS; COUNTY GRANTS.**

Subdivision 1. **Conditions.** (a) The agency shall not require feedlot permittees to maintain records as to rainfall or snowfall as a condition of a general feedlot permit if the owner directs the commissioner or agent of the commissioner to appropriate data on precipitation maintained by a government agency or educational institution.

(b) A feedlot permittee shall give notice to the agency when the permittee proposes to transfer ownership or control of the feedlot to a new party. The commissioner shall not unreasonably withhold or unreasonably delay approval of any transfer request. This request shall be handled in accordance with sections 116.07 and 15.992.

~~(c) The Environmental Quality Board shall review and recommend modifications to environmental review rules related to phased actions and animal agriculture facilities. The Environmental Quality Board shall report recommendations to the chairs of the committees of the senate and house of representatives with jurisdiction over agriculture and the environment by January 15, 2002.~~

~~(d) If the owner of an animal feedlot requests an extension for an application for a national pollutant discharge elimination permit or state disposal system permit by June 1, 2001, then the agency shall grant an extension for the application to September 1, 2001.~~

~~(e)(c) An animal feedlot in shoreland that has been unused may resume operation after obtaining a permit from the agency or county, regardless of the number of years that the feedlot was unused.~~

Subd. 2. **County feedlot program grants; three-part formula.** (a) Money appropriated to the commissioner to make grants to delegated counties to administer the county feedlot program must be distributed according to the three-part formula in paragraphs (b) to (d).

(b) Number of feedlots in the county: 60 percent of the total appropriation must be distributed according to the number of feedlots that are required to be registered in the county. Grants awarded under this paragraph must be matched with a combination of local cash and in-kind contributions.

(c) Minimum program requirements: 25 percent of the total appropriation must be distributed based on the county (1) conducting an annual number of inspections at feedlots that is equal to or greater than seven percent of the total number of registered feedlots that are required to be registered in the county; and (2) meeting noninspection minimum program requirements as identified in the county feedlot workplan form. Counties that do not meet the inspection requirement must not receive 50 percent of the eligible funding under this paragraph. Counties must receive funding for noninspection requirements under this paragraph according to a scoring system checklist administered by the commissioner. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, shall make a final decision regarding any appeal by a county regarding the terms and conditions of this paragraph.

(d) Performance credits: 15 percent of the total appropriation must be distributed according to work that has been done by the counties during the fiscal year. The amount must be determined by the number of performance credits a county accumulates during the year based on a performance credit matrix jointly agreed upon by the commissioner in consultation with the Minnesota Association of County Feedlot Officers executive team. To receive an award under this paragraph, the county must meet the requirements of paragraph (c), clause (1), and achieve 90 percent of the requirements according to paragraph (c), clause (2), of the formula. The rate of reimbursement per performance credit item must not exceed \$200.

Subd. 3. **Minimum grant; prorated grant; transfers.** Delegated counties are eligible for a minimum grant of \$7,500. To receive the full \$7,500 amount, a county must meet the requirements under subdivision 2, paragraph (c). Nondelegated counties that apply for delegation shall receive a grant prorated according to the number of full quarters remaining in the program year from the date of commissioner approval of the delegation. Awards to any newly delegated counties must be made out of the appropriation reserved under subdivision 2, paragraph (d). The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, may decide to use money reserved under subdivision 2, paragraph (d), in an amount not to exceed five percent of the total annual appropriation for initiatives to enhance existing delegated county feedlot programs, information and education, or technical assistance efforts to reduce feedlot-related pollution hazards. Any amount remaining after distribution under subdivision 2, paragraphs (b) and (c), must be transferred for purposes of subdivision 2, paragraph (d).

Sec. 46. Minnesota Statutes 2008, section 116.41, subdivision 2, is amended to read:

**Subd. 2. Training and certification programs.** The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and may shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 47. **[116.9401] DEFINITIONS.**

(a) For the purposes of sections 116.9401 to 116.9407, the following terms have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Alternative" means a substitute process, product, material, chemical, strategy, or combination of these that is technically feasible and serves a functionally equivalent purpose to a chemical in a children's product.

(d) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(e) "Chemical of high concern" means a chemical identified on the basis of credible scientific evidence by a state, federal, or international agency as being known or suspected with a high degree of probability to:

(1) harm the normal development of a fetus or child or cause other developmental toxicity;

(2) cause cancer, genetic damage, or reproductive harm;

(3) disrupt the endocrine or hormone system;

(4) damage the nervous system, immune system, or organs, or cause other systemic toxicity;

(5) be persistent, bioaccumulative, and toxic; or

(6) be very persistent and very bioaccumulative.

(f) "Child" means a person under 12 years of age.

(g) "Children's product" means a consumer product intended for use by children, such as baby products, toys, car seats, personal care products, and clothing.

(h) "Commissioner" means the commissioner of the Pollution Control Agency.

(i) "Department" means the Department of Health.

(j) "Distributor" means a person who sells consumer products to retail establishments on a wholesale basis.

(k) "Green chemistry" means an approach to designing and manufacturing products that minimizes the use and generation of toxic substances.

(l) "Manufacturer" means any person who manufactures a final consumer product sold at retail or whose brand name is affixed to the consumer product. In the case of a consumer product imported into the United States, manufacturer includes the importer or domestic distributor of the consumer product if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not have a presence in the United States.

(m) "Priority chemical" means a chemical identified by the Department of Health as a chemical of high concern that meets the criteria in section 116.9403.

(n) "Safer alternative" means an alternative whose potential to harm human health is less than that of the use of a priority chemical that it could replace.

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

**Sec. 48. [116.9402] IDENTIFICATION OF CHEMICALS OF HIGH CONCERN.**

(a) By July 1, 2010, the department shall, after consultation with the agency, generate a list of chemicals of high concern.

(b) The department must periodically review and revise the list of chemicals of high concern at least every three years. The department may add chemicals to the list if the chemical meets one or more of the criteria in section 116.9401, paragraph (e).

(c) The department shall consider chemicals listed as a suspected carcinogen, reproductive or developmental toxicant, or as being persistent, bioaccumulative, and toxic, or very persistent and very bioaccumulative by a state, federal, or international agency. These agencies may include, but are not limited to, the California Environmental Protection Agency, the Washington Department of Ecology, the United States Department of Health, the United States Environmental Protection Agency, the United Nation's World Health Organization, and European Parliament Annex XIV concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals.

(d) The department may consider chemicals listed by another state as harmful to human health or the environment for possible inclusion in the list of chemicals of high concern.

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

**Sec. 49. [116.9403] IDENTIFICATION OF PRIORITY CHEMICALS.**

(a) The department, after consultation with the agency, may designate a chemical of high concern as a priority chemical if the department finds that the chemical:

(1) has been identified as a high-production volume chemical by the United States Environmental Protection Agency; and

(2) meets any of the following criteria:

(i) the chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(ii) the chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(iii) the chemical has been found through monitoring to be present in fish, wildlife, or the natural environment.

(b) By February 1, 2011, the department shall publish a list of priority chemicals in the State Register and on the department's Internet Web site and shall update the published list whenever a new priority chemical is designated.

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

**Sec. 50. [116.9405] APPLICABILITY.**

The requirements of sections 116.9401 to 116.9407 do not apply to:

(1) chemicals in used children's products;

(2) priority chemicals used in the manufacturing process, but that are not present in the final product;

(3) priority chemicals used in agricultural production;

(4) motor vehicles as defined in chapter 168 or watercraft as defined in chapter 86B or their

component parts, except that the use of priority chemicals in detachable car seats is not exempt;

(5) priority chemicals generated solely as combustion by-products or that are present in combustible fuels;

(6) retailers;

(7) pharmaceutical products or biologics;

(8) a medical device as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h);

(9) food and food or beverage packaging, except a container containing baby food or infant formula;

(10) consumer electronics products and electronic components, including but not limited to personal computers; audio and video equipment; calculators; digital displays; wireless phones; cameras; game consoles; printers; and handheld electronic and electrical devices used to access interactive software or their associated peripherals; or products that comply with the provisions of directive 2002/95/EC of the European Union, adopted by the European Parliament and Council of the European Union now or hereafter in effect; or

(11) outdoor sport equipment, including snowmobiles as defined in section 84.81, subdivision 3; all-terrain vehicles as defined in section 84.92, subdivision 8; personal watercraft as defined in section 86B.005, subdivision 14a; watercraft as defined in section 86B.005, subdivision 18; and off-highway motorcycles, as defined in section 84.787, subdivision 7, and all attachments and repair parts for all of this equipment.

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

**Sec. 51. [116.9406] DONATIONS TO THE STATE.**

The commissioner may accept donations, grants, and other funds to carry out the purposes of sections 116.9401 to 116.9407. All donations, grants, and other funds must be accepted without preconditions regarding the outcomes of the regulatory oversight processes set forth in sections 116.9401 to 116.9407.

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

**Sec. 52. [116.9407] PARTICIPATION IN INTERSTATE CHEMICALS CLEARINGHOUSE.**

The state may cooperate with other states in an interstate chemicals clearinghouse regarding chemicals in consumer products, including the classification of priority chemicals in commerce; organizing and managing available data on chemicals, including information on uses, hazards, risks, and environmental and health concerns; and producing and evaluating information on safer alternatives to specific uses of priority chemicals.

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

Sec. 53. Minnesota Statutes 2008, section 116C.834, subdivision 1, is amended to read:

Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities under

the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the Pollution Control Agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

- (1) the state contribution required to join the compact;
- (2) the expenses of the commission member and state agency costs incurred to support the work of the Interstate Commission; and
- (3) regulatory costs.

~~The fees are exempt from section 16A.1285.~~

**Sec. 54. [216H.021] GREENHOUSE GAS EMISSIONS REPORTING.**

Subdivision 1. **Commissioner to establish reporting system and maintain inventory.** In order to measure the progress in meeting the goals of section 216H.02, subdivision 1, and to provide information to develop strategies to achieve those goals, the commissioner of the Pollution Control Agency shall establish a system for reporting and maintaining an inventory of greenhouse gas emissions. The commissioner must consult with the chief information officer of the Office of Enterprise Technology about system design and operation. Greenhouse gas emissions include those emissions described in section 216H.01, subdivision 2.

Subd. 2. **Reporting system design.** (a) The commissioner shall, to the extent practicable, design the system to coordinate with other regional or federal greenhouse gas emissions-reporting and inventory systems. The coordination may, without limitation, include the use of similar forms and reports, the sharing of information, and the use of common facilities, systems, and databases.

(b) The reporting system need not include all sources of emissions nor all amounts of emissions but, at its outset, must include:

(1) all stationary sources and other facilities required to obtain a permit under Title V of the federal Clean Air Act, United States Code, title 42, section 7401 et. seq.; and

(2) facilities whose annual carbon dioxide equivalent emissions, as defined in section 216H.10, subdivision 3, exceed a threshold set by the commissioner at between 10,000 tons and 25,000 tons. The reporting threshold set by the commissioner must be consistent with the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies.

(c) In designing the greenhouse gas emissions reporting system, the commissioner shall consider requiring the reporting of greenhouse gas emissions from transportation fuels and greenhouse gas emissions from natural gas combustion that are not included in reporting from stationary sources. In determining whether to include reporting of these emissions, the commissioner must consider both the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies recommended by the Minnesota Climate Change Advisory Group. If the commissioner decides that transportation fuels and portions of natural gas combustion should not be included in the initial emissions reporting system, the commissioner must report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction

over energy and environmental policy the reasons for that decision and suggestions for steps that should be taken to allow their inclusion in the emissions reporting system in the future.

(d) A facility reporting greenhouse gas emissions under this section must maintain the data used to create the reports for a minimum of five years.

Subd. 3. **Rules.** The commissioner of the Pollution Control Agency may adopt rules for the purposes of this section.

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

Sec. 55. Minnesota Statutes 2008, section 216H.10, subdivision 7, is amended to read:

Subd. 7. **High-GWP greenhouse gas.** "High-GWP greenhouse gas" means hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, nitrous trifluoride, and any other gas the agency determines by rule to have a high global warming potential.

Sec. 56. Minnesota Statutes 2008, section 216H.11, is amended to read:

**216H.11 HIGH-GWP GREENHOUSE GAS REPORTING.**

Subdivision 1. **Gas manufacturers.** Beginning By October 1, 2008, and each year thereafter, a manufacturer of a high-GWP greenhouse gas must report to the agency the total amount of each high-GWP greenhouse gas sold to a purchaser in this state during the previous year.

Subd. 2. **Purchases.** Beginning By October 1, 2008, and each year thereafter, a person in this state who purchases 500 10,000 metric tons or more carbon dioxide equivalent of a high-GWP greenhouse gas for use or retail sale in this state must report to the agency, on a form prescribed by the commissioner, the total amount of each high-GWP greenhouse gas purchased for use or retail sale in this state during the previous year and the purpose for which the gas was used. The commissioner may adopt rules under chapter 14 to establish a different reporting threshold or to adopt specific reporting requirements for commercial or industrial facilities that purchase high-GWP gases for use or retail sale in this state.

Subd. 3. **Acceptance of federal filing.** With the approval of the commissioner, this section may be satisfied by filing with the commissioner a copy of a greenhouse gas emissions report filed with a federal agency or a regional or national greenhouse gas registry, provided that the entity with which the report is filed requires the emissions data to be verified.

**Sec. 57. [325E.046] STANDARDS FOR LABELING PLASTIC BAGS.**

Subdivision 1. **"Biodegradable" label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "biodegradable," "degradable," or any form of those terms, or in any way imply that the bag will chemically decompose into innocuous elements in a reasonably short period of time in a landfill, composting, or other terrestrial environment unless a scientifically based standard for biodegradability is developed and the bags are certified as meeting the standard.

Subd. 2. **"Compostable" label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "compostable" unless, at the time of sale, the bag meets the ASTM Standard Specification for Compostable Plastics (D6400). Each bag must be labeled to reflect that it meets the standard. For purposes of this subdivision, "ASTM" has the meaning given in section 296A.01, subdivision 6.

Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A manufacturer, distributor, or wholesaler who violates subdivision 1 or 2 is subject to a civil penalty of \$100 for each prepackaged saleable unit offered for sale up to a maximum of \$5,000 and may be enjoined from those violations.

(b) The attorney general may bring an action in the name of the state in a court of competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in this subdivision. The attorney general may accept an assurance of discontinuance of acts in violation of subdivision 1 or 2 in the manner provided in section 8.31, subdivision 2b.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 58. **[383B.236] WASTE MANAGEMENT BY HENNEPIN COUNTY.**

The Hennepin County Board of Commissioners may utilize money received from the sale of energy and recovered materials and placed in the county solid and hazardous waste fund under section 473.811, subdivision 9, for program expenses of the Department of Environmental Services, or the department or office succeeding to the functions of the Department of Environmental Services. This authority shall be in addition to the authority given in section 473.811, subdivision 9.

Sec. 59. Laws 2005, chapter 156, article 2, section 45, as amended by Laws 2007, chapter 148, article 2, section 73, is amended to read:

**Sec. 45. SALE OF STATE LAND.**

Subdivision 1. **State land sales.** The commissioner of administration shall coordinate with the head of each department or agency having control of state-owned land to identify and sell at least \$6,440,000 of state-owned land. Sales should be completed according to law and as provided in this section as soon as practicable but no later than June 30, ~~2009~~ 2011. Notwithstanding Minnesota Statutes, sections 16B.281 and 16B.282, 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land for public sale by only providing notice of lands or an offer of sale of lands to state departments or agencies, the University of Minnesota, cities, counties, towns, school districts, or other public entities.

Subd. 2. **Anticipated savings.** Notwithstanding Minnesota Statutes, section 94.16, subdivision 3, or other law to the contrary, the amount of the proceeds from the sale of land under this section that exceeds the actual expenses of selling the land must be deposited in the general fund, except as otherwise provided by the commissioner of finance. Notwithstanding Minnesota Statutes, section 94.11 or 16B.283, the commissioner of finance may establish the timing of payments for land purchased under this section. If the total of all money deposited into the general fund from the proceeds of the sale of land under this section is anticipated to be less than \$6,440,000, the governor must allocate the amount of the difference as reductions to general fund operating expenditures for other executive agencies for the biennium ending June 30, ~~2009~~ 2011.

Subd. 3. **Sale of state lands revolving loan fund.** \$290,000 is appropriated from the general fund in fiscal year 2006 to the commissioner of administration for purposes of paying the actual expenses of selling state-owned lands to achieve the anticipated savings required in this section. From the gross proceeds of land sales under this section, the commissioner of administration must cancel the amount of the appropriation in this subdivision to the general fund by June 30, ~~2009~~ 2011.

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

Sec. 60. Laws 2007, chapter 57, article 1, section 4, subdivision 2, is amended to read:

Subd. 2. **Land and Mineral Resources Management** 11,747,000 11,272,000

Appropriations by Fund

General	6,633,000	6,230,000
Natural Resources	3,551,000	3,447,000
Game and Fish	1,363,000	1,395,000
Permanent School	200,000	200,000

\$475,000 the first year and \$475,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund and \$275,000 each year is from the general fund. \$237,500 the first year and \$237,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,800,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c).

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

\$15,000 the first year is for a report by February 1, 2008, to the house and senate committees with jurisdiction over environment and natural resources on proposed minimum legal and conservation standards that could be applied to conservation easements acquired with public money.

\$1,201,000 the first year and \$701,000 the second year are to support the land records management system. Of this amount, \$326,000 the first year and \$326,000 the second year are from the game and fish fund and \$375,000 the first year and \$375,000 the second year are from the natural resources fund. The unexpended balances are available until June 30, 2011. The commissioner must report to the legislative chairs on environmental finance on the outcomes of the land records management support.

\$500,000 the first year and \$500,000 the second year are for land asset management. This is a onetime appropriation.

Sec. 61. Laws 2008, chapter 363, article 5, section 4, subdivision 7, is amended to read:

<b>Subd. 7. Fish and Wildlife Management</b>	123,000	119,000
Appropriations by Fund		
General	-0-	(427,000)
Game and Fish	123,000	546,000

\$329,000 in 2009 is a reduction for fish and wildlife management.

\$46,000 in 2009 is a reduction in the appropriation for the Minnesota Shooting Sports Education Center.

\$52,000 in 2009 is a reduction for licensing.

\$123,000 in 2008 and \$246,000 in 2009 are from the game and fish fund to implement fish virus surveillance, prepare infrastructure to handle possible outbreaks, and implement control procedures for highest risk waters and fish production operations. This is a onetime

appropriation.

Notwithstanding Minnesota Statutes, section 297A.94, paragraph (e), \$300,000 in 2009 is from the second year appropriation in Laws 2007, chapter 57, article 1, section 4, subdivision 7, from the heritage enhancement account in the game and fish fund to study, predesign, and design a shooting sports facilities at the Vermillion Highlands Wildlife Management Area authorized by Laws 2007, chapter 57, article 1, section 168 facility in the seven-county metropolitan area. This is available onetime only and is available until expended.

\$300,000 in 2009 is appropriated from the game and fish fund for only activities that improve, enhance, or protect fish and wildlife resources. This is a onetime appropriation.

**Sec. 62. SCORE REPORTING.**

Subdivision 1. **2010 requirement.** The requirements for the report specified in Minnesota Statutes, section 115A.557, subdivision 3, paragraph (b), clause (2), that is due April 1, 2010, shall be abbreviated in scope. The information collected shall be sufficient for the commissioner of the Pollution Control Agency to determine that counties have complied with the requirements of this subdivision.

Subd. 2. **Recommendations; report.** The commissioner of the Pollution Control Agency, in consultation with the Association of Minnesota Counties, the Solid Waste Administrators Association, the Solid Waste Management Coordinating Board, and other interested parties shall make recommendations to amend the reporting requirements under Minnesota Statutes, section 115A.557, subdivision 3, in ways that reduce the resources counties employ to collect the data reported, while ensuring that estimation methods used to report data are consistent across counties and that the data reported are accurate and useful as a guide to solid waste management policy makers. The commissioner shall also make recommendations regarding the feasibility and desirability of multicounty reporting of the data. The commissioner's recommendations must be presented in a report submitted to the chairs and ranking minority members of the senate and house of representatives committees and divisions with primary jurisdiction over solid waste policy and finance no later than January 15, 2010.

**Sec. 63. PRIORITY CHEMICAL REPORTS.**

(a) By January 15, 2010, the commissioner of health, in consultation with the Pollution Control Agency, shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health regarding the progress on implementing new Minnesota Statutes, sections 116.9401 to 116.9407, and information on the progress of federal, international, and other states in identifying, prioritizing, evaluating, regulating, and reducing the use of chemicals

of high concern and priority chemicals in children's products and in determining the availability of safer alternatives for specific applications and promoting the use of those safer alternatives.

(b) By December 15, 2010, the commissioner of the Pollution Control Agency shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health assessing mechanisms used by other states, the federal government, and other countries to reduce and phase out the use of priority chemicals in children's products and promote the use of safer alternatives. The report shall include potential funding mechanisms to implement this process. The report must include recommendations to promote and provide incentives for product design that use principles of green chemistry and life-cycle analysis. In developing the report, the agency may consult with stakeholders, including representatives of state agencies, manufacturers of children's products, chemical manufacturers, public health experts, independent scientists, and public interest groups. The report must include information on any stakeholder process consulted with or used in developing the report.

(c) By January 15, 2010, the agency shall provide an interim report about the progress in developing the report required under paragraph (b), including information on the status of any stakeholder process.

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

**Sec. 64. REORGANIZATION PROHIBITION; ENVIRONMENTAL QUALITY BOARD.**

Notwithstanding Minnesota Statutes, section 16B.37, unless expressly provided by law, the commissioner of administration shall not reorganize the Environmental Quality Board within another agency, prior to July 1, 2011.

**Sec. 65. ENVIRONMENTAL REVIEW STREAMLINING REPORT.**

By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

**Sec. 66. COMPENSATION OF GOVERNOR'S STAFF.**

For fiscal years 2010 and 2011, the Department of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil Resources may not use funds appropriated in this article or funds from any statutory or open appropriation to pay directly or indirectly for the compensation costs of staff in the office of the governor.

**Sec. 67. FISH CONSUMPTION ADVISORIES.**

The commissioner of natural resources, in cooperation with the commissioner of health, shall

ensure that fish consumption advisories are displayed in at least four different languages, one of which must be English, to fairly represent the population of the state.

**Sec. 68. CARBON SEQUESTRATION FORESTRY REPORT.**

The Minnesota Forest Resources Council shall review the Minnesota Climate Change Advisory Group's recommendation to increase carbon sequestration in forests by planting 1,000,000 acres of trees and shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over energy and energy finance, environment and natural resources, and environment and natural resources finance; the governor; and the commissioner of natural resources by January 15, 2010. The report shall, at a minimum, include recommendations on implementation and analysis of the number and ownership of acres available for tree planting, the types of native species best suited for planting, the availability of planting stock, and potential costs.

**Sec. 69. REPEALER.**

Laws 2008, chapter 363, article 5, section 30, is repealed.

**ARTICLE 2**

**ENERGY FINANCE**

**Section 1. SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<b><u>2010</u></b>	<b><u>2011</u></b>	<b><u>Total</u></b>
<u>General</u>	\$ <u>27,291,000</u>	\$ <u>27,041,000</u>	\$ <u>54,332,000</u>
<u>Petroleum Tank Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>	<u>2,168,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>	<u>1,502,000</u>
<u>Telecommunications Access</u>			
<u>Minnesota</u>	<u>600,000</u>	<u>600,000</u>	<u>1,200,000</u>
<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>	<u>1,975,000</u>
<b><u>Total</u></b>	<b><u>\$ 31,076,000</u></b>	<b><u>\$ 30,101,000</u></b>	<b><u>\$ 61,177,000</u></b>

**Sec. 2. ENERGY FINANCE APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**

	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
<b>Sec. 3. <u>DEPARTMENT OF COMMERCE</u></b>		
<b><u>Subdivision 1. Total Appropriation</u></b>	<b>\$</b>	<b>\$</b>
	<b><u>25,643,000</u></b>	<b><u>24,668,000</u></b>
<u>Appropriations by Fund</u>		
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>21,858,000</u>	<u>21,608,000</u>
<u>Petroleum Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>
<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>
<u>Telecommunications</u>		
<u>Access Minnesota</u>	<u>600,000</u>	<u>600,000</u>
<u>The amounts that may be spent for each purpose are specified in the following subdivisions.</u>		
<b><u>Subd. 2. Financial Institutions</u></b>	<u>6,638,000</u>	<u>6,638,000</u>
<u>\$1,000 each year is for consumer small loan regulation modifications in article 7. This appropriation is added to the department's base.</u>		
<b><u>Subd. 3. Petroleum Tank Release Cleanup Board</u></b>	<u>1,084,000</u>	<u>1,084,000</u>
<u>This appropriation is from the petroleum tank release cleanup fund. The base funding for this program ends June 30, 2012.</u>		
<b><u>Subd. 4. Administrative Services</u></b>	<u>4,300,000</u>	<u>4,300,000</u>
<b><u>Subd. 5. Telecommunications</u></b>	<u>1,010,000</u>	<u>1,010,000</u>
<b><u>Subd. 6. Market Assurance</u></b>	<u>7,421,000</u>	<u>7,421,000</u>
<u>Appropriations by Fund</u>		
<u>General</u>	<u>6,670,000</u>	<u>6,670,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>

<u>Subd. 7. Office of Energy Security</u>	<u>4,590,000</u>	<u>3,615,000</u>
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Appropriations by Fund

<u>General</u>	<u>3,240,000</u>	<u>2,990,000</u>
<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>

\$250,000 the first year is for E-85 grants under Laws 2007, chapter 57, article 2, section 3, subdivision 6. Grants for on-site blending pumps must include up to 75 percent of the total cost of the project, up to a maximum of \$15,000 per pump. This is a onetime appropriation.

The utility subject to Minnesota Statutes, section 116C.779, shall transfer \$1,350,000 in fiscal year 2010 and \$625,000 in fiscal year 2011 only to the Department of Commerce on a schedule determined by the commissioner of commerce. These funds must be deposited in the special revenue fund and are appropriated to the commissioner for grants to promote renewable energy projects and community energy outreach and assistance. Of the amounts identified:

(1) \$300,000 the first year is for a grant to the Board of Regents of the University of Minnesota for the Natural Resources and Research Institute at the University of Minnesota, Duluth, to develop statewide heat flow maps in order to determine the geothermal potential of the state of Minnesota;

(2) \$625,000 each year is for continued funding of community energy technical assistance and outreach on renewable energy and energy efficiency, as described in Minnesota Statutes, section 216C.385. Of this amount, \$125,000 each year is for technical assistance in the metropolitan area;

(3) \$25,000 the first year is for a grant to a nonprofit organization with experience in creating innovative partnerships through collaborative action with diverse interests,

including businesses, government agencies, environmental organizations, and others, to manage a stakeholder process on green jobs that would integrate the work of the state Green Jobs Task Force and the mayors' initiative on green manufacturing; and

(4) \$400,000 the first year is to provide financial rebates for new solar electricity projects.

**Subd. 8. Telecommunications Access Minnesota**

600,000

600,000

\$300,000 the first year and \$300,000 the second year are for transfer to the commissioner of human services to supplement the ongoing operational expenses of the Minnesota Commission Serving Deaf and Hard-of-Hearing People. This appropriation is from the telecommunication access Minnesota fund, and is added to the commission's base. This appropriation consolidates, and is not in addition to, appropriation language from Laws 2006, chapter 282, article 11, section 4, and Laws 2007, chapter 57, article 2, section 3, subdivision 7.

\$300,000 each year is from the telecommunications access fund to the commissioner of commerce for a grant to the Legislative Coordinating Commission for a pilot program to provide captioning of live streaming of legislative sessions on the commission's Web site and a grant to the Commission of Deaf, DeafBlind, and Hard-of-Hearing Minnesotans to provide information on their Web site in American Sign Language and to provide technical assistance to state agencies. The commissioner of commerce may allocate a portion of this money to the Office of Technology to coordinate technology accessibility and usability.

**Subd. 9. Transfers**

By July 31, 2009, the commissioner of finance

shall transfer \$500,000 from the unexpended balance in the auto theft prevention account to the general fund.

Sec. 4. **PUBLIC UTILITIES COMMISSION**           \$           **5,433,000** \$           **5,433,000**

Sec. 5. Minnesota Statutes 2008, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; ~~and~~

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and

(8) assess a licensee the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigations. All money collected must be deposited into the general fund. A natural person licensed under chapter 60K or 82 shall not be charged costs of an investigation if the investigation results in no finding of a violation.

Sec. 6. Minnesota Statutes 2008, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies;

- (1) for filing certificate of incorporation \$25 and amendments thereto, \$10;
- (2) for filing annual statements, \$15;
- (3) for each annual certificate of authority, \$15;
- (4) for filing bylaws \$25 and amendments thereto, \$10;
- (b) by other domestic and foreign companies including fraternal and reciprocal exchanges;
  - (1) for filing an application for an initial certification of authority to be admitted to transact business in this state, \$1,500;
  - (2) for filing certified copy of certificate of articles of incorporation, \$100;
  - (3) for filing annual statement, \$225;
  - (4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;
  - (5) for filing bylaws, \$75 or amendments thereto, \$75;
  - (6) for each company's certificate of authority, \$575, annually;
- (c) the following general fees apply:
  - (1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;
  - (2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;
  - (3) for license to procure insurance in unadmitted foreign companies, \$575;
  - (4) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;
  - (5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;
  - (6) for each appointment of an agent filed with the commissioner, \$10;
  - (7) for filing forms, rates, and compliance certifications under section 60A.315, ~~\$90~~ \$140 per filing, or ~~\$75~~ \$125 per filing when submitted via electronic filing system. Filing fees may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;
  - (8) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 7. [116J.438] MINNESOTA GREEN ENTERPRISE ASSISTANCE.

(a) The commissioner of employment and economic development, in consultation with the commissioner of commerce, shall lead a multiagency project to advise, promote, market, and coordinate state agency collaboration on green enterprise and green economy projects, as defined in section 116J.437. The multiagency project must include the commissioners of employment and economic development, natural resources, agriculture, transportation, and commerce, and the Pollution Control Agency. The project must involve collaboration with the chairs and ranking minority members of legislative committees overseeing energy policy and energy finance, state agencies, local governments, representatives from business and agriculture, and other interested stakeholders. The objective of the project is to utilize existing state resources to expedite the delivery of grants, licenses, permits, and other state authorizations and approvals for green economy projects. The commissioner shall appoint a lead person to coordinate green enterprise assistance activities.

(b) The commissioner of employment and economic development shall seek out and may select persons from the business community to assist the commissioner in project activities.

(c) The commissioner may accept gifts, contributions, and in-kind services for the purposes of this section, under the authority provided in section 116J.035, subdivision 1. Any funds received must be placed in a special revenue account for the purposes of this section.

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

Sec. 8. Minnesota Statutes 2008, section 216B.62, subdivision 3, is amended to read:

Subd. 3. **Assessing all public utilities.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to ~~(1) public utilities under section 216A.085, sections 216A.085 and 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2 or 6, and (2) alternative energy engineering activity under section 216C.261 or 7.~~ The remainder, ~~except the amount assessed against cooperatives and municipalities for alternative energy engineering activity under subdivision 5,~~ shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 9. Minnesota Statutes 2008, section 216B.62, subdivision 4, is amended to read:

Subd. 4. **Objections.** Within 30 days after the date of the transmittal of any bill as provided by ~~subdivisions subdivision 2 and, 3, or 7,~~ the public utility against which the bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days hold a hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Sec. 10. Minnesota Statutes 2008, section 216B.62, subdivision 5, is amended to read:

Subd. 5. **Assessing cooperatives and municipals.** The commission and department may charge cooperative electric associations, generation and transmission cooperative electric associations, municipal power agencies, and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes, proceedings under section 216B.1691, 216B.2425, or 216B.243, and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

~~The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.~~

Sec. 11. Minnesota Statutes 2008, section 216B.62, is amended by adding a subdivision to read:

Subd. 7. **Assessing all utilities.** The department shall assess public utilities, cooperative electric associations, and municipal utilities for the costs of activities under chapter 216C. The department shall not assess for costs of grants, loans, or other aids or for costs that can be recovered through other assessment authority. Each public utility, cooperative, and municipal utility shall be assessed in the proportion that its gross operating revenue for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

**Sec. 12. BULK INSTALLATION OF SOLAR PHOTOVOLTAIC PANELS ON SCHOOL BUILDINGS; FEASIBILITY STUDY AND REPORT.**

The director of the Office of Energy Security, in consultation with the commissioner of education, schools, school districts, and solar industry experts, must study the economic and technical feasibility of bulk installation of solar photovoltaic panels on school buildings in this state. The study must use a power-purchase agreement model in which a private company would pay for, install, and own the solar photovoltaic panels. No later than January 15, 2010, the director of the Office of Energy Security must report the results of the feasibility study, including whether the proposed model would reduce carbon emissions and result in savings to school districts, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over energy policy and finance.

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

**Sec. 13. APPROPRIATIONS; CANCELLATIONS.**

(a) The remaining balance of the fiscal year 2009 special revenue fund appropriation for

the Green Jobs Task Force under Laws 2008, chapter 363, article 6, section 3, subdivision 4, is transferred and appropriated to the commissioner of employment and economic development for the purposes of green enterprise assistance under Minnesota Statutes, section 116J.438. This appropriation is available until spent.

(b) The unencumbered balance of the fiscal year 2008 appropriation to the commissioner of commerce for the rural and energy development revolving loan fund under Laws 2007, chapter 57, article 2, section 3, subdivision 6, is canceled and reappropriated as follows:

(1) \$1,500,000 is for a grant to the Board of Trustees of the Minnesota State Colleges and Universities for the International Renewable Energy Technology Institute (IRETI) to be located at Minnesota State University, Mankato, as a public and private partnership to support applied research in renewable energy and energy efficiency to aid in the transfer of technology from Sweden to Minnesota and to support technology commercialization from companies located in Minnesota and throughout the world; and

(2) the remaining balance is for a grant to the Board of Regents of the University of Minnesota for the initiative for renewable energy and the environment to fund start up costs related to a national solar testing and certification laboratory to test, rate, and certify the performance of equipment and devices that utilize solar energy for heating and cooling air and water and for generating electricity.

This appropriation is available until expended.

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

### ARTICLE 3

#### DEPARTMENT OF COMMERCE; OTHER REGULATORY PROVISIONS

Section 1. Minnesota Statutes 2008, section 47.58, subdivision 1, is amended to read:

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

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, credit union subject to chapter 52, savings bank organized and operated pursuant to chapter 50, savings association subject to chapter 51A, any residential mortgage originator subject to chapter 58, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings association supervised by the Federal

Home Loan Bank Board or federally chartered credit union supervised by the National Credit Union Administration, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the meanings given them:

(a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

(b) "Consumer small loan lender" is a financial institution as defined in section 47.59 or a person business entity registered with the commissioner and engaged in the business of making consumer small loans.

Sec. 3. Minnesota Statutes 2008, section 47.60, subdivision 3, is amended to read:

Subd. 3. **Filing.** Before a person business entity other than a financial institution as defined by section 47.59 engages in the business of making consumer small loans to Minnesota residents, the person business entity shall file with the commissioner as a consumer small loan lender. The filing must be on a form prescribed by the commissioner together with a fee of \$250 for each place of business and contain the following information in addition to the information required by the commissioner:

(1) evidence that the filer has available for the operation of the business at the location specified, liquid assets of at least \$50,000; and

(2) a biographical statement on the principal person responsible for the operation and management of the business to be certified.

Revocation of the filing ~~and the right to engage in the business of a consumer small loan lender~~ is the same as in the case of a regulated lender license in section 56.09.

For purposes of this subdivision, "business entity" includes one that does not have a physical location in Minnesota that makes a consumer small loan electronically via the Internet.

Sec. 4. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation.** A person business entity or the person's entity's members, officers, directors, agents, and employees who violate or participate in the violation of any of the provisions of this section may be liable in the same manner as in section 56.19.

Sec. 5. Minnesota Statutes 2008, section 48.21, is amended to read:

#### **48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.**

Subdivision 1. **Specific restrictions.** (a) A bank may purchase, carry as an asset, and convey real estate only:

- (1) as provided for in section 47.10;
- (2) if acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;
- (3) if conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;
- (4) if acquired by sale on execution or judgment of a court in its favor; or
- (5) if reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

(b) Real estate acquired under paragraph (a), clauses (2) to (5), shall be carried as an asset only in accordance with rules the commissioner prescribes. The maximum period for holding other real estate as an asset shall be five years, provided that upon application to the commissioner, the commissioner may approve the possession of such real estate by a bank for a period longer than five years, but not to exceed an additional five years, if:

- (1) the bank has made a good faith attempt to dispose of the real estate within the initial five-year period; or
- (2) disposal within the initial five-year period would be detrimental to the bank.

Subd. 2. **Real estate holdings not bank liabilities.** Real estate owned by a bank as a result of actions authorized in ~~clauses (2) to (5) of subdivision 1, paragraph (a), clauses (2) to (5), and~~ subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. **Real estate holdings not sold; authority to write off.** Notwithstanding any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to ~~clauses (2) to (5) of~~ subdivision 1, paragraph (a), clauses (2) to (5), is not sold or otherwise disposed of within the maximum period ~~established by rule by the commissioner~~, the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

Sec. 6. Minnesota Statutes 2008, section 58.05, subdivision 3, is amended to read:

Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c), a financial institution under clause (2), or by order of the commissioner under clause (6); or under section 58.04, subdivision 2, paragraph (b), as a financial institution under clause ~~(3)~~ (4), or by order of the commissioner under clause ~~(7)~~ (8).

Sec. 7. Minnesota Statutes 2008, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

- (b) ~~A~~ A residential mortgage originator applicant must submit one of the following:

(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;

(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or

(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the ~~date~~ dates that mandatory testing, initial education was, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;

(iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

(iv) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

(v) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000;

(vi) complies with federal and state tax laws; and

(vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 8. Minnesota Statutes 2008, section 58.126, is amended to read:

**58.126 EDUCATION AND TESTING REQUIREMENT.**

(a) No individual shall engage in residential mortgage origination or make residential mortgage loans, whether as an employee or independent contractor, before the completion of 15 20 hours of educational training which has been approved by the commissioner, and covering state and federal laws concerning residential mortgage lending.

(b) In addition to the initial education requirements in paragraph (a), each individual must also complete eight hours of continuing education annually. The education must include:

(1) three hours of federal law and regulations;

(2) two hours of ethics, which must include fraud, consumer protection, and fair lending; and

(3) two hours of standards governing nontraditional mortgage lending.

(c) The commissioner may by rule establish testing requirements for individuals subject to the requirements of paragraphs (a) and (b). An individual must satisfy the testing requirements established by the commissioner before engaging in residential mortgage loan origination or making residential mortgage loans.

**EFFECTIVE DATE.** This section is effective September 1, 2009, and applies to license applications and renewals made on or after that date.

Sec. 9. Minnesota Statutes 2008, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:

(1) fail to maintain a trust account to hold trust funds received in connection with a residential mortgage loan;

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, clause (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208, and 47.58;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person may rely upon a written representation by the residential mortgage originator that it is in compliance with the licensing requirements of this chapter;

(15) claim to represent a licensee or exempt person, unless the person is an employee of the licensee or exempt person or unless the person has entered into a written agency agreement with the licensee or exempt person;

(16) fail to comply with the record keeping and notification requirements identified in section 58.14 or fail to abide by the affirmations made on the application for licensure;

(17) represent that the licensee or exempt person is acting as the borrower's agent after providing the nonagency disclosure required by section 58.15, unless the disclosure is retracted and the licensee or exempt person complies with all of the requirements of section 58.16;

(18) make, provide, or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or, if the originator does not utilize credit scoring or if a credit score is unavailable, then comparable underwriting data, indicates that the borrower may qualify for a residential mortgage loan, available from or through the originator, that is of a higher investment

grade, unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest rate and/or lower discount points, and consents in writing to receipt of the lower investment grade loan;

For purposes of this section, "investment grade" refers to a system of categorizing residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or "subprime"; (ii) commonly designated by an alphabetical character with "A" being the highest investment grade; and (iii) are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or representation relating to the business of residential mortgage loans that is false, deceptive, or misleading;

(20) advertise loan types or terms that are not available from or through the licensee or exempt person on the date advertised, or on the date specified in the advertisement. For purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case;

(22) violate section 82.49, relating to table funding;

(23) make, provide, or arrange for a residential mortgage loan all or a portion of the proceeds of which are used to fully or partially pay off a "special mortgage" unless the borrower has obtained a written certification from an authorized independent loan counselor that the borrower has received counseling on the advisability of the loan transaction. For purposes of this section, "special mortgage" means a residential mortgage loan originated, subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit organization, that bears one or more of the following nonstandard payment terms which substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal or interest are not required or can be deferred under specified conditions; (iii) principal or interest is forgivable under specified conditions; or (iv) where no interest or an annual interest rate of two percent or less is charged in connection with the loan. For purposes of this section, "authorized independent loan counselor" means a nonprofit, third-party individual or organization providing homebuyer education programs, foreclosure prevention services, mortgage loan counseling, or credit counseling certified by the United States Department of Housing and Urban Development, the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks America;

(24) make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully

indexed rate and a repayment schedule which achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan, including criteria established by the United States Department of Veterans Affairs or the United States Department of Housing and Urban Development for interest rate reduction refinancing loans or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; however, such other criteria must be verified through reasonably reliable methods and documentation. The mortgage originator's analysis of the borrower's reasonable ability to repay may include, but is not limited to, consideration of the following items, if verified: (1) the borrower's current and expected income; (2) current and expected cash flow; (3) net worth and other financial resources other than the consumer's equity in the dwelling that secures the loan; (4) current financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7) employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax returns; (12) pension statements; and (13) employment payment records, provided that no mortgage originator shall disregard facts and circumstances that indicate that the financial or other information submitted by the consumer is inaccurate or incomplete. A statement by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources or sole reliance on any single item listed above is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay.

(25) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;

(26) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change from the amount previously disclosed. A residential mortgage originator need not make this disclosure concerning a refinancing loan if the residential mortgage originator knows that the borrower's existing loan that is anticipated to be refinanced does not have an escrow account; or

(27) make, provide, or arrange for a residential mortgage loan, other than a reverse mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance with any repayment option offered pursuant to the terms of the loan will result in negative amortization during any six-month period.

(b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage loan originated or purchased by

a state agency or a tribal or local unit of government. This paragraph supersedes any inconsistent provision of this chapter.

Sec. 10. Minnesota Statutes 2008, section 60A.124, is amended to read:

**60A.124 INDEPENDENT AUDIT.**

The audit report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under section ~~60A.129~~ 60A.1291, subdivision 3 2, ~~paragraph (a)~~, should contain a statement as to whether anything, in connection with their audit, came to their attention that caused them to believe that the insurer failed to adopt and consistently apply the valuation procedure as required by sections 60A.122 and 60A.123.

Sec. 11. **[60A.1291] ANNUAL AUDIT.**

Subdivision 1. Definitions. The definitions in this subdivision apply to this section.

(a) "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed or is required to be licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

(b) "Audit committee" means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this section at the election of the controlling person under subdivision 15, paragraph (e). If an audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the audit committee.

(c) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(d) "Independent board member" has the same meaning as described in subdivision 15, paragraph (c).

(e) "Internal control over financial reporting" means a process effected by an entity's board of directors, management, and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and includes those policies and procedures that:

(1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and that receipts and expenditures are being made

only in accordance with authorizations of management and directors; and

(3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that could have a material effect on the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c).

(f) "SEC" means the United States Securities and Exchange Commission.

(g) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated under it.

(h) "Section 404 report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in paragraph (a).

(i) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (section 10A(i) of the Securities Exchange Act of 1934); (ii) the audit committee independence requirements of Section 301 (section 10A(m)(3) of the Securities Exchange Act of 1934); and (iii) the internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Subd. 2. **Filing requirements.** Every insurance company doing business in this state, including fraternal benefit societies, reciprocal exchanges, service plan corporations licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter 62G, unless exempted by the commissioner pursuant to subdivision 9, paragraph (a), or by subdivision 18, shall have an annual audit of the financial activities of the most recently completed calendar year performed by an independent certified public accountant, and shall file the report of this audit with the commissioner on or before June 1 for the immediately preceding year ending December 31. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days before the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

If an extension is granted in accordance with this subdivision, a similar extension of 30 days is granted to the filing of management's report of internal control over financial reporting.

Every insurer required to file an annual audited financial report pursuant to this subdivision shall designate a group of individuals as constituting its audit committee. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this subdivision at the election of the controlling person.

Subd. 3. **Exemptions.** Foreign and alien insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from this section if a

copy of the audited financial report, communication of internal control related matters noted in an audit, accountant's letter of qualifications, and report on significant deficiencies in internal controls, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in subdivision 2 (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in subdivision 11. Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified. This subdivision does not prohibit or in any way limit the commissioner from ordering, conducting, and performing examinations of insurers under the authority of this chapter.

Subd. 4. **Contents of annual audit; financial report.** (a) The annual audited financial report must report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year ended. The annual audited financial report must include:

- (1) a report of an independent certified public accountant;
- (2) a balance sheet reporting admitted assets, liabilities, capital, and surplus;
- (3) a statement of operations;
- (4) a statement of cash flows;
- (5) a statement of changes in capital and surplus; and
- (6) notes to the financial statements.

(b) The notes required under paragraph (a) are those required by the appropriate National Association of Insurance Commissioners (NAIC) annual statement instructions and National Association of Insurance Commissioners Accounting Practices and Procedures Manual and include reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under section 60A.13, subdivision 1, with a written description of the nature of these differences.

(c) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement must be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted. The amounts may be rounded to the nearest \$1,000, and all immaterial amounts may be combined.

Subd. 5. **Designation of independent certified public accountant.** Each insurer required by this section to file an annual audited financial report must notify the commissioner in writing of the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement. The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions

that relate to accounting and financial matters in the insurance laws and the rules of the insurance regulatory authority of the state of domicile. The letter shall affirm that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying the exceptions believed to be appropriate. A copy of the accountant's letter shall be filed with the commissioner.

Subd. 6. **Report of disagreements.** If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall notify the commissioner of this event within five business days. Within ten business days of this notification, the insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused that person to make reference to the subject matter of the disagreement in connection with the opinion on the financial statements. The disagreements required to be reported in response to this subdivision include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subdivision are those disagreements between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for any disagreement. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

Subd. 7. **Qualifications of independent certified public accountant.** (a) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed or is required to be licensed to practice, or for a Canadian or British company, that is not a chartered accountant, or that has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as an indemnification agreement) with respect to the audit of the insurer. Except as otherwise provided, an independent certified public accountant must be recognized as qualified as long as the person conforms to the standards of the person's profession, as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Public Accountancy or similar code and the person is properly licensed in good standing with all required state boards of accountancy.

(b) The lead or coordinating audit partner, having primary responsibility for the audit, may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the commissioner for relief from this rotation requirement on the basis of unusual circumstances. This application must be made at least 30 days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(1) number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(2) premium volume of the insurer; or

(3) number of jurisdictions in which the insurer transacts business.

The insurer shall file, with its annual statement filing, the approval for relief from this paragraph with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(c) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(1) bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) financial information systems design and implementation;

(3) appraisal or valuation services, fairness opinions, or contribution in-kind reports;

(4) actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification on an insurer's reserves if the following conditions have been met:

(i) neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(ii) the insurer has competent personnel, or engages a third-party actuary, to estimate the loss reserves for which management takes responsibility; and

(iii) the accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the loss reserves;

(5) internal audit outsourcing services;

(6) management functions or human resources;

(7) broker or dealer, investment adviser, or investment banking services;

(8) legal services or expert services unrelated to the audit; and

(9) any other services that the commissioner determines, by rule, are impermissible.

(d) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any audited financial report, prepared in whole or in part by any natural person who has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, United States Code, title 18, sections 1961 to 1968, or any dishonest conduct or practices under federal or state law, has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section, or has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this section.

(e) The commissioner, after notice and hearing under chapter 14, may find that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this section.

Subd. 8. **Exemptions to qualifications of certified public accountant.** (a) Insurers having direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exemption from subdivision 7, paragraph (c). The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the commissioner finds, upon review of this statement, that compliance with this section would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(b) A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in subdivision 7, paragraph (c), only if the activity is approved in advance by the audit committee, in accordance with paragraph (c).

(c) All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer must be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(1) the aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(2) the services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(3) the services are promptly brought to the attention of the audit committee and approved before the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(d) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by paragraph (c). The decisions of any member to whom this authority is delegated must be presented to the full audit committee at each of its scheduled meetings.

(e) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This paragraph applies only to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from this paragraph on the basis of unusual circumstances.

(f) The insurer shall file, with its annual statement filing, the approval for relief with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic

filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Subd. 9. **Consolidated or combined audits.** (a) The commissioner may allow an insurer to file consolidated or combined audited financial statements required by subdivision 2, in lieu of separate annual audited financial statements, where it can be demonstrated that an insurer is part of a group of insurance companies that has a pooling or 100 percent reinsurance agreement which substantially affects the solvency and integrity of the reserves of the insurer and the insurer cedes all of its direct and assumed business to the pool. An affiliated insurance company not meeting these requirements may be included in the consolidated or combined audited financial statements, if the company's total admitted assets are less than five percent of the consolidated group's total admitted assets. If these circumstances exist, then the company may file a written application to file consolidated or combined audited financial statements. This application must be for a specified period.

(b) Upon written application by a domestic insurer, the commissioner may authorize the domestic insurer to include additional affiliated insurance companies in the consolidated or combined audited financial statements. A foreign insurer must obtain the prior written authorization of the commissioner of its state of domicile in order to submit an application for authority to file consolidated or combined audited financial statements. This application must be for a specified period.

(c) A consolidated annual audit filing must include a columnar consolidated or combining worksheet. Amounts shown on the audited consolidated or combined financial statement must be shown on the worksheet. Amounts for each insurer must be stated separately. Noninsurance operations may be shown on the worksheet on a combined or individual basis. Explanations of consolidating or eliminating entries must be shown on the worksheet. A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers must be included on the worksheet.

Subd. 10. **Scope of audit and report of independent certified public accountant.** Financial statements furnished pursuant to subdivision 4 must be examined by an independent certified public accountant. The audit of the insurer's financial statements must be conducted in accordance with generally accepted auditing standards. In accordance with AICPA Statement on Auditing Standards (SAS) No. 109, Understanding the Entity and its Environment and Assessing the Risks of Material Misstatement, or its replacement, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by SAS No. 109, for those insurers required to file a management's report of internal control over financial reporting pursuant to subdivision 17, the independent certified public accountant should consider (as that term is defined in SAS No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should be given to other procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Subd. 11. **Notification of adverse financial condition.** The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to provide written notice within five business days to the board of directors of the insurer or its audit

committee of any determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of sections 60A.07, 66A.32, and 66A.33 as of that date. An insurer required to file an annual audited financial report who received a notification of adverse financial condition from the accountant shall file a copy of the notification with the commissioner within five business days of the receipt of the notification. The insurer shall provide the independent certified public accountant making the notification with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive the evidence within the required five-day period, the independent certified public accountant shall furnish to the commissioner a copy of the notification to the board of directors or its audit committee within the next five business days. No independent certified public accountant is liable in any manner to any person for any statement made in connection with this subdivision if the statement is made in good faith in compliance with this subdivision. If the accountant becomes aware of facts which might have affected the audited financial report after the date it was filed, the accountant shall take the action prescribed by AU section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report of the Professional Standards issued by the American Institute of Certified Public Accountants, or its replacement.

Subd. 12. **Communication of internal control related matters noted in an audit.** In addition to the annual audited financial report, each insurer shall furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication must be prepared by the accountant within 60 days after the filing of the annual audited financial report, and must contain a description of any unremediated material weakness, as the term material weakness is defined by SAS No. 115, Communicating Internal Control Related Matters Identified in an Audit, or its replacement, as of December 31 immediately preceding so as to coincide with the audited financial report discussed in subdivision 2 in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

Subd. 13. **Accountant's letter of qualification.** The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that the accountant is independent with respect to the insurer and conforms to the standards of the accountant's profession as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Accountancy or similar code; the background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant; that the accountant understands that the annual audited financial report and the opinion on it will be filed in compliance with this statute and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers; that the accountant consents to the requirements of subdivision 14 and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the work papers, as defined in subdivision 14; a representation that the accountant

is properly licensed in good standing by the appropriate state licensing authorities and is a member in good standing in the American Institute of Certified Public Accountants; and a representation that the accountant complies with subdivision 7. Nothing in this section prohibits the accountant from utilizing staff the accountant deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

**Subd. 14. Availability and maintenance of independent certified public accountants' work papers.** Work papers are the records kept by the independent certified public accountant of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the independent certified public accountant's audit of the financial statements of an insurer. Work papers may include audit planning documents, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the audit of the financial statements of an insurer and that support the accountant's opinion. Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the work papers prepared in the conduct of the audit and any communications related to the audit between the accountant and the insurer. The work papers must be made available at the offices of the insurer, at the offices of the commissioner, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than seven years after the period reported upon, provided retention of the working papers beyond the seven years is not required by other professional or regulatory requirements. In the conduct of the periodic review by the examiners, it must be agreed that photocopies of pertinent audit work papers may be made and retained by the commissioner. These copies shall be part of the commissioner's work papers and must be given the same confidentiality as other examination work papers generated by the commissioner.

**Subd. 15. Requirements for audit committee.** (a) The audit committee must be directly responsible for the appointment, compensation, and oversight of the work of any accountant including resolution of disagreements between management and the accountant regarding financial reporting for the purpose of preparing or issuing the audited financial report or related work pursuant to this section. Each accountant shall report directly to the audit committee.

(b) Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to paragraph (e) and subdivision 1, paragraph (b).

(c) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise nonindependent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the

responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(e) To exercise the election of the controlling person to designate the audit committee for purposes of this section, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification must be made timely before the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election remains in effect for perpetuity, until rescinded.

(f) The audit committee shall require the accountant that performs for an insurer any audit required by this section to timely report to the audit committee in accordance with the requirements of SAS No. 114, The Auditor's Communication with Those Charged with Governance, or its replacement, including:

(1) all significant accounting policies and material permitted practices;

(2) all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(3) other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(g) If an insurer is a member of an insurance holding company system, the reports required by paragraph (f) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(h) The proportion of independent audit committee members shall meet or exceed the following criteria:

(1) for companies with prior calendar year direct written and assumed premiums \$0 to \$300,000,000, no minimum requirements;

(2) for companies with prior calendar year direct written and assumed premiums over \$300,000,000 to \$500,000,000, majority of members must be independent; and

(3) for companies with prior calendar year direct written and assumed premiums over \$500,000,000, 75 percent or more must be independent.

(i) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the commissioner for a waiver from the requirements of this subdivision based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this subdivision with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

This subdivision does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly-owned subsidiary of a SOX compliant

entity.

**Subd. 16. Conduct of insurer in connection with the preparation of required reports and documents.** (a) No director or officer of an insurer shall, directly or indirectly:

(1) make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, or communication required under this section; or

(2) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review, or communication required under this section.

(b) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this section if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(c) For purposes of paragraph (b), actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead, or fraudulently influence an accountant:

(1) to issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards;

(2) not to perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(3) not to withdraw an issued report; or

(4) not to communicate matters to an insurer's audit committee.

**Subd. 17. Management's report of internal control over financial reporting.** (a) Every insurer required to file an audited financial report pursuant to this section that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more, shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in subdivision 1. The report must be filed with the commissioner along with the communication of internal control related matters noted in an audit described under subdivision 12. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(b) Notwithstanding the premium threshold in paragraph (a), the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition pursuant to sections 60G.20 to 60G.22.

(c) An insurer or a group of insurers that is:

(1) directly subject to Section 404;

(2) part of a holding company system whose parent is directly subject to Section 404;

(3) not directly subject to Section 404 but is a SOX compliant entity; or

(4) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity;

may file its or its parent's Section 404 report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file (i) a report under this subdivision, or (ii) the Section 404 report and a report under this subdivision for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

(d) Management's report of internal control over financial reporting shall include:

(1) a statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) a statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) a statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) a statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) a statement regarding the inherent limitations of internal control systems; and

(7) signatures of the chief executive officer and the chief financial officer or equivalent position or title.

(e) Management shall document and make available upon financial condition examination the

basis upon which its assertions, required in paragraph (d), are made. Management may base its assertions, in part, upon its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

(1) Management has discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(2) Management's report on internal control over financial reporting, required by paragraph (a), and any documentation provided in support of the report during the course of a financial condition examination, must be kept confidential by the Department of Commerce.

Subd. 18. **Exemptions.** (a) Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of this section. In order to receive an exemption, an insurer must demonstrate to the satisfaction of the commissioner that compliance would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from the denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing must be held in accordance with chapter 14. Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. An exemption may not be granted until the insurer presents an alternative method satisfying the purposes of this section. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing must be held in accordance with chapter 14.

(b) This section applies to all insurers, unless otherwise indicated, required to file an annual audit by subdivision 2, except insurers having less than \$1,000,000 of direct written premiums in this state in any calendar year and fewer than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of the calendar year, are exempt from this section for that year, unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities, except that insurers having assumed premiums from reinsurance contracts or treaties of \$1,000,000 or more are not exempt.

Subd. 19. **Canadian and British companies.** (a) In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

(b) For these insurers the letter required in subdivision 5 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under subdivision 2, and shall affirm that the opinion expressed is in conformity with those requirements.

Subd. 20. **Commercial mortgage loan valuation procedures.** A report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under subdivision 2, shall be filed and contain a statement as to whether anything in connection with the audit came to the accountant's attention that caused the accountant to believe that the insurer failed to adopt and consistently apply the valuation procedures as required by sections 60A.122 and 60A.123.

Subd. 21. **Examinations.** (a) The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this section conducted by examiners under

section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioners, Insurance Regulatory Information Systems, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this section must be compliance examinations, targeted examinations, and comprehensive examinations.

(b) Compliance examinations will consist of a review of the accountant's workpapers defined under this section and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the Department of Commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(c) Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

(d) Comprehensive examinations will be performed when the report of the accountant as provided for in subdivision 7, paragraph (b), the notification required by subdivision 7, paragraph (c), the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

(e) Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to the examination.

Subd. 22. **Penalties.** An annual statement, report, or document related to the business of insurance must not be filed with the commissioner or issued to the public if it is signed by anyone who is represented in the instrument as an "accountant," unless the person is qualified as defined by this section. A violation of this subdivision is a violation of section 72A.19 and punishable in accordance with section 72A.25.

**EFFECTIVE DATE.** (a) Domestic insurers retaining a certified public accountant on the effective date of this section who qualify as independent shall comply with this section for the year ending December 31, 2010, and each year thereafter unless the commissioner permits otherwise.

(b) Domestic insurers not retaining a certified public accountant on the effective date of this section who qualifies as independent shall meet the following schedule for compliance unless the commissioner permits otherwise.

(1) As of December 31, 2010, file with the commissioner an audited financial report.

(2) For the year ending December 31, 2010, and each year thereafter, such insurers shall file with the commissioner all reports and communication required by this section.

(c) Foreign insurers shall comply with this section for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.

(d) The requirements of subdivision 7, paragraph (b), are in effect for audits of the year beginning January 1, 2010, and thereafter.

(e) The requirements of subdivision 15 are in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium has one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination has one calendar year following the date of acquisition or combination to comply with the independence requirements.

(f) An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements has two years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. Likewise, an insurer acquired in a business combination has two calendar years following the date of acquisition or combination to comply with the reporting requirements.

(g) The requirements and provisions contained in this section are effective January 1, 2010, and thereafter.

Sec. 12. Minnesota Statutes 2008, section 60B.03, subdivision 15, is amended to read:

Subd. 15. **Insolvency.** "Insolvency" means:

(a) For an insurer organized under sections 67A.01 to 67A.26, the inability to pay any uncontested debt as it becomes due ~~or any other loss within 30 days after the due date specified in the first assessment notice issued pursuant to section 67A.17.~~

(b) For any other insurer, that it is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of (1) any capital and surplus required by law to be constantly maintained, or (2) its authorized and issued capital stock. For purposes of this subdivision, "assets" includes one-half of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were 100 percent collection of an assessment at the rate of ten mills per dollar of insurance written by it and in force.

Sec. 13. Minnesota Statutes 2008, section 60L.02, subdivision 3, is amended to read:

Subd. 3. **Additional requirements.** (a) In order to be eligible to be governed by sections 60L.01 to 60L.15, the insurer must meet the requirements specified under this subdivision.

(b) The insurer shall:

(1) have been in continuous operation for a minimum of five years; and

(2) maintain a minimum claims-paying, financial strength, or equivalent rating from at least one

nationally recognized statistical rating organization in one of the organization's three highest rating categories for the time period during which sections 60L.01 to 60L.15 apply to the insurer. For purposes of this subdivision, the rating must be based on a review of the insurer by the nationally recognized statistical rating organization with the cooperation of the insurer; must not depend on a guarantee or other credit enhancement from another entity; and must not be modified or otherwise qualified to show dependence of the rating on the performance or a contractual obligation of, or the insurer's affiliation with, another insurer.

(c) The insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer shall employ at least one individual as a professional investment manager for the insurer's investments whom the board of directors or trustees of the insurer finds is qualified on the basis of experience, education or training, competence, personal integrity, and who conducts professional investment management activities in accordance with the Code of Ethics and Standards of Professional Conduct of the Association for Investment Management and Research. For purposes of complying with this paragraph, an employee of an affiliate may only be used if they are responsible for managing the insurer's investments.

(d) The board of directors of the insurer must annually adopt a resolution finding that the insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer has employed a professional investment manager for the insurer's investments with sufficient expertise and has sufficient other resources to implement and monitor the insurer's investment policies and strategies.

(e) In the report required under section ~~60A.129~~ 60A.1291, subdivision ~~3~~ 12, ~~paragraph (4)~~, the insurer's independent auditor shall not have identified any significant deficiencies in the insurer's internal control structure related to investments during any of the five years immediately preceding the date on which sections 60L.01 to 60L.15 begin to apply to the insurer, and as long as sections 60L.01 to 60L.15 apply to the insurer.

**Sec. 14. [61A.258] PRENEED INSURANCE PRODUCTS; MINIMUM MORTALITY STANDARDS FOR RESERVES AND NONFORFEITURE VALUES.**

Subdivision 1. Definitions. For the purposes of this section, the following terms have the meanings given them:

(1) "2001 CSO Mortality Table (2001 CSO)" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table (2001 CSO) is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table (2001 CSO)" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables;

(2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983; and

(3) "preneed insurance" is any life insurance policy or certificate that is issued in combination

with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

Subd. 2. **Minimum valuation mortality standards.** For preneed insurance contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

Subd. 3. **Minimum valuation interest rate standards.** (a) The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in section 61A.25.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in section 61A.24.

Subd. 4. **Minimum valuation method standards.** (a) The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in section 61A.25.

(b) The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in section 61A.24.

**EFFECTIVE DATE; TRANSITION RULES.** (a) This section is effective January 1, 2009, and applies to preneed insurance policies and certificates issued on or after that date.

(b) For preneed insurance policies issued on or after the effective date of this section and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

(c) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this section and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

(1) a complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

(2) a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

(3) supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this section and using the 2001 CSO as a minimum standard for reserves.

(d) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980

CSO in the calculation of minimum nonforfeiture values and minimum reserves.

Sec. 15. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

Subd. 4. **Limitation of benefits.** The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (5), with respect to any one life, regardless of the number of policies or contracts:

(i) ~~\$300,000~~ \$500,000 in life insurance death benefits, but not more than ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

(iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement annuities or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid, on or before the date of impairment or insolvency; or

(3) subject to the limitations in clauses (5) and (6), with respect to each individual resident participating in a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values;

(4) where no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value;

(5) in no event shall the association be liable to expend more than ~~\$300,000~~ \$500,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii), (iv), and clause (4), and any one individual under clause (3);

(6) in no event shall the association be liable to expend more than ~~\$7,500,000~~ \$10,000,000 with respect to all unallocated annuities of a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992. If total claims from a plan exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among the claimants;

(7) for purposes of applying clause (2)(ii) and clause (5), with respect only to health insurance benefits, the term "any one life" applies to each individual covered by a health insurance policy;

(8) where covered contractual obligations are equal to or less than the limits stated in this subdivision, the association will pay the difference between the covered contractual obligations and the amount credited by the estate of the insolvent or impaired insurer, if that amount has been determined or, if it has not, the covered contractual limit, subject to the association's right of

subrogation;

(9) where covered contractual obligations exceed the limits stated in this subdivision, the amount payable by the association will be determined as though the covered contractual obligations were equal to those limits. In making the determination, the estate shall be deemed to have credited the covered person the same amount as the estate would credit a covered person with contractual obligations equal to those limits; or

(10) the following illustrates how the principles stated in clauses (8) and (9) apply. The example illustrated concerns hypothetical claims subject to the limit stated in clause (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply to claims subject to any limits stated in this subdivision.

CONTRACTUAL OBLIGATIONS OF:

		\$50,000	
	Estate		Guaranty Association
0% recovery from estate	\$ 0		\$ 50,000
25% recovery from estate	\$ 12,500		\$ 37,500
50% recovery from estate	\$ 25,000		\$ 25,000
75% recovery from estate	\$ 37,500		\$ 12,500
		\$100,000	
	Estate		Guaranty Association
0% recovery from estate	\$ 0		\$ 100,000
25% recovery from estate	\$ 25,000		\$ 75,000
50% recovery from estate	\$ 50,000		\$ 50,000
75% recovery from estate	\$ 75,000		\$ 25,000
		\$200,000	
	Estate		Guaranty Association
0% recovery from estate	\$ 0		\$ 100,000

46TH DAY]	MONDAY, MAY 4, 2009	3989
25% recovery from estate	\$ 50,000	\$ 75,000
50% recovery from estate	\$ 100,000	\$ 50,000
75% recovery from estate	\$ 150,000	\$ 25,000

For purposes of this subdivision, the commissioner shall determine the discount rate to be used in determining the present value of annuity benefits.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to member insurers who are first determined to be impaired or insolvent on or after that date. Member insurers who are subject to an order of impairment in effect on the effective date but are not declared insolvent until after the effective date shall continue to be governed by the law in effect prior to the effective date.

Sec. 16. Minnesota Statutes 2008, section 61B.28, subdivision 4, is amended to read:

Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision nor is it a violation of this subdivision to explain verbally to an applicant or potential applicant the coverage provided by the Minnesota Life and Health Insurance Guaranty Association at any time during the application process or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. ~~A person violating this section is guilty of a misdemeanor.~~

Sec. 17. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a), is as follows:

" .....

.....

.....

(insert name, current address, and  
telephone number of insurer)

NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN  
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH  
INSURANCE GUARANTY ASSOCIATION LAW

If the insurer that issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer.

In addition, residents of Minnesota who purchase life insurance, annuities, or health insurance from insurance companies authorized to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

Minnesota Life and Health Insurance Guaranty Association  
(insert current  
address and telephone number)

The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to ~~\$300,000~~ \$500,000. Subject to this ~~\$300,000~~ \$500,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$500,000 in life insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance, ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of annuity benefits for annuities which are part of a structured settlement or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid on or before the date of impairment or insolvency, or if no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value. Unallocated annuity contracts issued to retirement plans, other than defined benefit plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values, for Minnesota residents covered by the plan provided, however, that the association shall not be responsible for more than ~~\$7,500,000~~ \$10,000,000 in claims from all Minnesota residents covered by the plan. If total claims exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among all claimants. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.

THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.

THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, AND HEALTH

INSURANCE POLICIES ARE REQUIRED TO PROVIDE THIS NOTICE."

Additional language may be added to the notice if approved by the commissioner prior to its use in the form. This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 18. Minnesota Statutes 2008, section 67A.01, is amended to read:

**67A.01 NUMBER OF MEMBERS REQUIRED, PROPERTY AND TERRITORY.**

Subdivision 1. **Number of members.** (a) It shall be lawful for any number of persons, not less than 25, residing in adjoining townships counties in this state, who shall collectively own property worth at least \$50,000, to form themselves into a corporation for mutual insurance against loss or damage by the perils listed in section 67A.13.

~~(b) Except as otherwise provided in this section, the company shall operate in no more than 150 adjoining townships in the aggregate at the same time. The company may, if approval has been granted by the commissioner, operate in more than 150 adjoining townships in the aggregate at the same time, subject to a maximum of 300 townships. If the company confines its operations to one county it may transact business in that county by so providing in its certificate of incorporation. In case of merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies, but the territory of the surviving company in the merger must not be larger than 300 townships.~~

Subd. 2. **Authorized territory.** (a) A township mutual fire insurance company may be authorized to write business in up to nine adjoining counties in the aggregate at the same time. If policyholder surplus is at least \$500,000 as reported in the company's last annual financial statement filed with the commissioner, the company may, if approval has been granted by the commissioner, be authorized to write business in ten or more counties in the aggregate at the same time, subject to a maximum of 20 adjoining counties, in accordance with the following schedule:

<u>Number of Counties</u>	<u>Surplus Requirement</u>
<u>10</u>	<u>\$500,000</u>
<u>11</u>	<u>600,000</u>
<u>12</u>	<u>700,000</u>
<u>13</u>	<u>800,000</u>
<u>14</u>	<u>900,000</u>
<u>15</u>	<u>1,000,000</u>
<u>16</u>	<u>1,100,000</u>
<u>17</u>	<u>1,200,000</u>
<u>18</u>	<u>1,300,000</u>
<u>19</u>	<u>1,400,000</u>
<u>20</u>	<u>1,500,000</u>

(b) In the case of a merger of two or more companies having contiguous territories, the surviving

company in the merger may transact business in the entire territory of the merged companies; however, the territory of the surviving company in the merger may not be larger than 20 counties.

(c) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory having a population less than 25,000. A township mutual may continue to write new and renewal insurance once the population increases to 25,000 or greater provided that amended and restated articles are filed with the commissioner along with a certification that such city's population has increased to 25,000 or greater.

(d) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, if approval has been granted by the commissioner. No township mutual fire insurance company shall insure any property in cities with a population of 150,000 or greater.

(e) If a township mutual fire insurance company provides evidence to the commissioner that the company had insurance in force on December 31, 2007, in a city within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, the company may write new and renewal insurance on property in that city provided that the company files amended and restated articles by July 31, 2010, naming that city.

Sec. 19. Minnesota Statutes 2008, section 67A.06, is amended to read:

**67A.06 POWERS OF CORPORATION.**

Every corporation formed under the provisions of sections 67A.01 to 67A.26, shall have power:

- (1) to have succession by its corporate name for the time stated in its certificate of incorporation;
- (2) to sue and be sued in any court;
- (3) to have and use a common seal and alter the same at pleasure;
- (4) to acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purpose of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation;
- (5) to elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, fix their compensation, and define their powers and duties;
- (6) to make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs;
- (7) to wind up and liquidate its business in the manner provided by chapter 60B; ~~and~~
- (8) to indemnify certain persons against expenses and liabilities as provided in section 302A.521. In applying section 302A.521 for this purpose, the term "members" shall be substituted for the terms "shareholders" and "stockholders-"; and
- (9) to eliminate or limit a director's personal liability to the company or its members for monetary damages for breach of fiduciary duty as a director. A company shall not eliminate or limit the liability of a director:
  - (i) for breach of loyalty to the company or its members;

(ii) for acts or omissions made in bad faith or with intentional misconduct or knowing violation of law;

(iii) for transactions from which the director derived an improper personal benefit; or

(iv) for acts or omissions occurring before the date that the provisions in the articles eliminating or limiting liability become effective.

Sec. 20. Minnesota Statutes 2008, section 67A.07, is amended to read:

**67A.07 PRINCIPAL OFFICE.**

The principal office of a township mutual fire insurance company shall be located in a ~~township~~ or in a city in a township county in which the company is authorized to do business.

Sec. 21. Minnesota Statutes 2008, section 67A.14, subdivision 1, is amended to read:

Subdivision 1. **Kinds of property; property outside authorized territory.** (a) Township mutual fire insurance companies may insure qualified property. Qualified property means dwellings, household goods, appurtenant structures, farm buildings, farm personal property, churches, church personal property, county fair buildings, community and township meeting halls and their usual contents.

(b) Township mutual fire insurance companies may extend coverage to include an insured's secondary property if the township mutual fire insurance company covers qualified property belonging to the insured. Secondary property means any real or personal property that is not considered qualified property for a township mutual fire insurance company to cover under this chapter. The maximum amount of coverage that a township mutual fire insurance company may write for secondary property is 25 percent of the total limit of liability of the policy issued to an insured covering the qualified property.

(c) A township mutual fire insurance company may insure any real or personal property, including qualified or secondary property, subject to the limitations in subdivision 1, paragraph (b), located outside the limits of the territory in which the company is authorized by its certificate or articles of incorporation to transact business, if the company is already covering qualified property belonging to the insured, inside the limits of the company's territory.

(d) A township mutual fire insurance company may insure property temporarily outside of the authorized territory of the township mutual fire insurance company.

Sec. 22. Minnesota Statutes 2008, section 67A.14, subdivision 7, is amended to read:

Subd. 7. **Amount of insurable risk.** No township mutual fire insurance company shall insure or reinsure a single risk or hazard in a larger sum than the greater of \$3,000, or one tenth of its net assets plus two tenths of a mill of its insurance in force; provided that no portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this subdivision.

Sec. 23. **[67A.175] SURPLUS REQUIREMENTS.**

Subdivision 1. **Minimum.** Township mutual fire insurance companies shall maintain a minimum policyholders' surplus of \$300,000 at all times.

Subd. 2. **Corrective action plan; filing.** A township mutual fire insurance company that falls below the \$300,000 minimum surplus requirement must file a corrective action plan with the commissioner. The plan shall state how the company will correct its surplus deficiency. The plan must be submitted within 45 days of the company falling below the minimum surplus level.

Subd. 3. **Corrective action plan; commissioner's notification.** Within 30 days after the submission by a township mutual fire insurance company of a corrective action plan, the commissioner shall notify the insurer whether the plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the plan is unsatisfactory, the notification to the company must set forth the reasons for the determination, and may set forth proposed revisions that will render the plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised corrective action plan that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised plan to the commissioner within 45 days.

Sec. 24. Minnesota Statutes 2008, section 67A.18, subdivision 1, is amended to read:

Subdivision 1. **By member.** Any member may terminate membership in the company by giving written notice or returning the member's policy to the secretary ~~and paying the withdrawing member's share of all existing claims.~~

Sec. 25. **REPEALER.**

Subdivision 1. **Annual audits.** Minnesota Statutes 2008, section 60A.129, is repealed.

Subd. 2. **Township mutual insured properties, joint or partial risks, and assessments.** Minnesota Statutes 2008, sections 67A.14, subdivision 5; 67A.17; and 67A.19, are repealed.

Subd. 3. **Banking procedures; real estate tax records.** Minnesota Rules, part 2675.2180, is repealed.

Subd. 4. **Debt prorating companies.** Minnesota Rules, parts 2675.7100; 2675.7110; 2675.7120; 2675.7130; and 2675.7140, are repealed.

Subd. 5. **Guaranty association; inflation indexing.** Minnesota Statutes 2008, section 61B.19, subdivision 6, is repealed.

## ARTICLE 4

### DEBT MANAGEMENT SERVICES

Section 1. Minnesota Statutes 2008, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 332B, 345, and 359, and sections 325D.30 to 325D.42, 326B.802 to 326B.885, and 386.61 to 386.78, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2008, section 46.04, subdivision 1, is amended to read:

Subdivision 1. **General.** The commissioner of commerce, referred to in chapters 46 to 59A, ~~and chapter 332A, and 332B~~ as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, chapter 201, were conferred by law upon

the public examiner, and shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of commerce shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once every 24 calendar months. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and licensed regulated lenders, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and rules. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of the commissioner's duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to official duties, the commissioner of commerce has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of commerce as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of duties.

Sec. 3. Minnesota Statutes 2008, section 46.05, is amended to read:

**46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.**

Every state bank, savings bank, trust company, savings association, debt management services provider, debt settlement services provider, and other financial institutions shall be at all times under the supervision and subject to the control of the commissioner of commerce. If, and whenever in the performance of duties, the commissioner finds it necessary to make a special investigation of any financial institution under the commissioner's supervision, and other than a complete examination, the commissioner shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on the commissioner's making a request for payment.

Sec. 4. Minnesota Statutes 2008, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, debt management services provider, debt settlement services provider, and insurance premium finance company organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce.

Sec. 5. Minnesota Statutes 2008, section 325E.311, subdivision 6, is amended to read:

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

- (1) to any residential subscriber with that subscriber's prior express invitation or permission; or
- (2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

- (i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law, unless the organization is a debt management services provider defined in section 332A.02 or a debt settlement services provider defined in section 332B.02;
- (ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or
- (iii) by a political party as defined under section 200.02, subdivision 6.

Sec. 6. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision to read:

Subd. 2a. **Advertise.** "Advertise" means to solicit business through any means or medium.

Sec. 7. Minnesota Statutes 2008, section 332A.02, subdivision 5, is amended to read:

Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly ~~controlling, controlled by,~~ or is under common control with another person. Controlling or affiliated party includes, but is not limited

to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Sec. 8. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision to read:

Subd. 5a. **Creditor.** "Creditor" means any party:

(1) named by the debtor as a creditor in the debt management services plan or debt management services agreement;

(2) that acquires or holds the debt; or

(3) to whom interactions with the debt management services is assigned in relation to the debt listed in the debt management services plan or debt management services agreement.

Sec. 9. Minnesota Statutes 2008, section 332A.02, subdivision 8, is amended to read:

**Subd. 8. Debt management services provider.** "Debt management services provider" means any person offering or providing debt management services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. This term includes any person to whom debt management services are delegated, and does not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) state or national banks, credit unions, trust companies, savings associations, title insurance companies, insurance companies, and all other lending institutions duly authorized to transact business in Minnesota, ~~provided no fee is charged for the service;~~

(3) persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt management, perform credit services for their employer;

(4) public officers acting in their official capacities and persons acting as a debt management services provider pursuant to court order;

(5) any person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(6) the state, its political subdivisions, public agencies, and their employees;

(7) ~~credit unions and~~ collection agencies, ~~provided no fee is charged for the service~~ that the services are provided to a creditor;

(8) "qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income Representative Payee System and the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;

(9) accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (8); (ii) mortgage lenders or servicers,

industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder;

(10) trustees, guardians, and conservators; and

(11) debt settlement services providers.

Sec. 10. Minnesota Statutes 2008, section 332A.02, subdivision 9, is amended to read:

Subd. 9. **Debt management services.** "Debt management services" means the provision of any ~~one or more of the following services in connection with debt incurred primarily for personal, family, or household services:~~

~~(1) managing the financial affairs of an individual by distributing income or money to the individual's creditors;~~

~~(2) receiving funds for the purpose of distributing the funds among creditors in payment or partial payment of obligations of a debtor; or~~

~~(3) adjusting, prorating, pooling, or liquidating the indebtedness of a debtor whereby a debt management services provider assists in managing the financial affairs of a debtor by distributing periodic payments to the debtor's creditors from funds that the debt management services provider receives from the debtor and where the primary purpose of the services is to effect full repayment of debt incurred primarily for personal, family, or household services.~~

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt management services regardless of whether or not a fee is charged for such services.

Sec. 11. Minnesota Statutes 2008, section 332A.02, subdivision 10, is amended to read:

Subd. 10. **Debtor.** "Debtor" means the person for whom the debt ~~prorating service is~~ management services are performed.

Sec. 12. Minnesota Statutes 2008, section 332A.02, subdivision 13, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means ~~any person engaging in or holding out as engaging in the business of negotiating, adjusting, or settling debt incurred primarily for personal, family, or household purposes without holding or receiving the debtor's funds or personal property and without paying the debtor's funds to, or distributing the debtor's property among, creditors~~ has the meaning given in section 332B.02, subdivision 11. ~~The term shall not include persons listed in subdivision 8, clauses (1) to (10).~~

Sec. 13. Minnesota Statutes 2008, section 332A.04, subdivision 6, is amended to read:

Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor or distribute to the debtor's creditors the amounts required by this chapter ~~and, or has failed to perform any of the services promised in the debt management services agreement between the debtor and registrant, the registrant is in default.~~ The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the

debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Sec. 14. Minnesota Statutes 2008, section 332A.08, is amended to read:

**332A.08 DENIAL OF REGISTRATION.**

The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration upon finding that the applicant:

(1) has submitted an application required under section 332A.04 that contains incorrect, misleading, incomplete, or materially untrue information. An application is incomplete if it does not include all the information required in section 332A.04;

(2) has failed to pay any fee or pay or maintain any bond required by this chapter, or failed to comply with any order, decision, or finding of the commissioner made under and within the authority of this chapter;

(3) has violated any provision of this chapter or any rule or direction lawfully made by the commissioner under and within the authority of this chapter;

(4) or any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt management services or any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(5) has had a registration or license previously revoked or suspended in this state or any other state or the applicant or licensee has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business; or any controlling or affiliated party has been an officer, director, manager, or shareholder owning more than a ten percent interest in a debt management services provider whose registration has previously been revoked or suspended in this state or any other state, or who has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business;

(6) has made any false statement or representation to the commissioner;

(7) is insolvent;

(8) refuses to fully comply with an investigation or examination of the debt management services provider by the commissioner;

(9) has improperly withheld, misappropriated, or converted any money or properties received in the course of doing business;

(10) has failed to have a trust account with an actual cash balance equal to or greater than the sum of the escrow balances of each debtor's account;

(11) has defaulted in making payments to creditors on behalf of debtors as required by

agreements between the provider and debtor; or

(12) has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; or

(13) has been shown to have engaged in a pattern of failing to perform the services promised.

Sec. 15. Minnesota Statutes 2008, section 332A.10, is amended to read:

**332A.10 WRITTEN DEBT MANAGEMENT SERVICES AGREEMENT.**

Subdivision 1. **Written agreement required.** (a) A debt management services provider may not perform any debt management services or receive any money related to a debt management services plan until the provider has obtained a debt management services agreement that contains all terms of the agreement between the debt management services provider and the debtor.

(b) A debt management services agreement must:

(1) be in writing, dated, and signed by the debt management services provider and the debtor;

(2) conspicuously indicate whether or not the debt management services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt management services provider advertised in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to written agreement.** No person may provide debt management services for a debtor or execute a debt management services agreement unless the person first has:

(1) provided the debtor individualized counseling and educational information that, at a minimum, addresses managing household finances, managing credit and debt, budgeting, and personal savings strategies;

(2) prepared in writing and provided to the debtor, in a form that the debtor may keep, an individualized financial analysis and a proposed debt management services plan listing the debtor's known debts with specific recommendations regarding actions the debtor should take to reduce or eliminate the amount of the debts, including written disclosure that debt management services are not suitable for all debtors and that there are other ways, including bankruptcy, to deal with indebtedness;

(3) made a determination supported by an individualized financial analysis that the debtor can reasonably meet the requirements of the proposed debt management services plan and that there is a net tangible benefit to the debtor of entering into the proposed debt management services plan; ~~and~~

(4) prepared, in a form the debtor may keep, a written list identifying all known creditors of the debtor that the provider reasonably expects to participate in the plan and the creditors, including secured creditors, that the provider reasonably expects not to participate; and

(5) disclosed, in addition to the written disclosure on the agreement required under subdivision 1, whether or not the debt management services provider is registered with the Minnesota Department of Commerce and any registration number.

Subd. 3. **Required terms.** (a) Each debt management services agreement must contain the following terms, which must be disclosed prominently and clearly in bold print on the front page of the agreement, segregated by bold lines from all other information on the page:

(1) the origination fee amount to be paid by the debtor and whether all or a portion of the initial origination fee amount is refundable or nonrefundable;

(2) the monthly fee amount or percentage to be paid by the debtor; and

(3) the total amount of fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt management services agreement must also contain the following:

(1) a disclosure that if the amount of debt owed is increased by interest, late fees, over the limit fees, and other amounts imposed by the creditors, the length of the debt management services agreement will be extended and remain in force and that the total dollar charges agreed upon may increase at the rate agreed upon in the original contract agreement;

(2) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332A.11;

(3) a detailed description of all services to be performed by the debt management services provider for the debtor;

(4) the debt management services provider's refund policy; and

(5) the debt management services provider's principal business address and the name and address of its agent in this state authorized to receive service of process.

Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt management services agreement:

(1) a hold harmless clause;

(2) a confession of judgment, or a power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceeding;

(3) a waiver of the right to a jury trial, if applicable, in any action brought by or against a debtor;

(4) an assignment of or an order for payment of wages or other compensation for services;

(5) a provision in which the debtor agrees not to assert any claim or defense arising out of the debt management services agreement;

(6) a waiver of any provision of this chapter or a release of any obligation required to be performed on the part of the debt management services provider; or

(7) a mandatory arbitration clause or a clause selecting a law other than the laws of Minnesota under which the debt management services agreement or any other dispute involving the provision of debt management services is governed or enforced.

Subd. 5. **New debt management services agreements; modification of existing agreements.**

(a) Separate and additional debt management services agreements that comply with this chapter may

be entered into by the debt management services provider and the debtor provided that no additional ~~initial~~ origination fee may be charged by the debt management services provider.

(b) Any modification of an existing debt management services agreement, including any increase in the number or amount of debts included in the debt management ~~service~~ services agreement, must be in writing and signed by both parties, except that the signature of the debtor is not required if:

(1) a creditor is added to or deleted from a debt management services agreement at the request of the debtor or a debtor voluntarily increases the amount of a payment, provided the debt management services provider must provide an updated payment schedule to the debtor within seven days; or

(2) the payment amount to a creditor in the agreement increases by \$10 or less and the total payment amount to all creditors increases a total of \$20 or less as a result of incorrect or incomplete information provided by the debtor regarding the amount of debt owed a creditor, provided the debt management services provider must notify the debtor of the increase within seven days.

No fees, charges, or other consideration may be demanded from the debtor for the modification, other than an increase in the amount of the monthly maintenance fee established in the original debt management services agreement.

Sec. 16. Minnesota Statutes 2008, section 332A.11, subdivision 2, is amended to read:

Subd. 2. **Notice of debtor's right to cancel.** A debt management services agreement must contain, on its face, in an easily readable ~~typeface~~ type immediately adjacent to the space for signature by the debtor, the following notice: "Right To Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Sec. 17. Minnesota Statutes 2008, section 332A.14, is amended to read:

### **332A.14 PROHIBITIONS.**

~~A registrant~~ No debt management services provider shall not:

(1) purchase from a creditor any obligation of a debtor;

(2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;

(3) advise, counsel, or encourage a debtor to stop paying a creditor ~~until a debt management services plan is in place~~, or imply, infer, encourage, or in any other way indicate, that it is advisable to stop paying a creditor;

(4) sanction or condone the act by a debtor of ceasing payments or imply, infer, or in any manner indicate that the act of ceasing payments is advisable or beneficial to the debtor;

~~(4)~~ (5) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;

~~(5)~~ (6) compromise any debts unless the prior written or contractual approval of the debtor has

been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;

~~(6)~~ (7) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;

~~(7)~~ (8) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or debt management services provider;

~~(8)~~ (9) structure a debt management services agreement that would result in negative amortization of any debt in the plan;

~~(9)~~ (10) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;

~~(10)~~ (11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management services plan;

~~(11)~~ (12) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;

~~(12)~~ (13) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

~~(13)~~ (14) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

~~(14)~~ (15) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

~~(15)~~ (16) solicit, demand, collect, require, or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution to a debt management services provider or designee from the debtor.

Sec. 18. Minnesota Statutes 2008, section 332A.16, is amended to read:

**332A.16 ADVERTISEMENT OF DEBT MANAGEMENT SERVICES PLANS.**

No debt management services provider may make false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt management services plan or its debt management services, or create the likelihood of consumer confusion or misunderstanding regarding its services, including but not limited to the following:

(1) represent that the debt management services provider is a nonprofit, not-for-profit, or has

similar status or characteristics if some or all of the debt management services will be provided by a for-profit company that is a controlling or affiliated party to the debt management services provider; or

(2) make any communication that gives the impression that the debt management services provider is acting on behalf of a government agency.

Sec. 19. **[332B.02] DEFINITIONS.**

Subd. 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Accreditation.** "Accreditation" means certification as an accredited credit counseling provider by the Council on Accreditation, the Bureau Veritas Certification North America, Inc., or BSI Management Systems America, Inc.

Subd. 3. **Advertise.** "Advertise" means to solicit business through any means or medium.

Subd. 4. **Aggregate debt.** "Aggregate debt" means the total of principal and interest that is owed by the debtor to the creditors at the time of execution of the debt settlement agreement.

Subd. 5. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 7. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly, or is under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Subd. 8. **Credit counseling.** "Credit counseling" means the provision of counseling and advice on managing household finances, including but not limited to, managing credit and debt, budgeting, and personal savings.

Subd. 9. **Creditor.** "Creditor" means any party:

(1) named by the debtor as a creditor in the debt settlement services plan or debt settlement services agreement;

(2) that acquires or holds the debt; or

(3) to whom interactions with the debt settlement services is assigned in relation to the debt listed in the debt settlement services plan or debt settlement services agreement.

Subd. 10. **Debt settlement services.** "Debt settlement services" means any one or more of the following activities:

(1) offering to provide advice, or offering to act or acting as an intermediary between a debtor and one or more of the debtor's creditors, where the primary purpose of the advice or action is to obtain a settlement for less than the full amount of debt, whether in principal, interest, fees, or other charges, incurred primarily for personal, family, or household purposes including, but not limited to, offering debt negotiation, debt reduction, or debt relief services; or

(2) advising, encouraging, assisting, or counseling a debtor to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the debtor's creditors.

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt settlement services, regardless of whether or not a fee is charged for such services.

Subd. 11. **Debt settlement services agreement.** "Debt settlement services agreement" means the written contract between the debt settlement services provider and the debtor.

Subd. 12. **Debt settlement services plan.** "Debt settlement services plan" means the debtor's individualized package of debt settlement services set forth in the debt settlement services agreement.

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom debt settlement duties are delegated. The term shall not include persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management services provider.

Subd. 14. **Lead generator.** "Lead generator" means a person that, without providing debt settlement services: (1) solicits debtors to engage in debt settlement through mail, in person, or electronic Web site-based solicitation or any other means, (2) acts as an intermediary or referral agent between a debtor and an entity actually providing debt settlement services, or (3) obtains a debtor's personally identifiable information and transmits that information to a debt settlement services provider.

Subd. 15. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Subd. 16. **Registrant.** "Registrant" means any person registered by the commissioner pursuant to this chapter and, where used in conjunction with an act or omission required or prohibited by this chapter, shall mean any person performing debt settlement services.

#### Sec. 20. [332B.03] REQUIREMENT OF REGISTRATION.

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a debt on or after August 1, 2009, without complying with this chapter.

#### Sec. 21. [332B.04] REGISTRATION.

Subdivision 1. **Form.** Application for registration to operate as a debt settlement services provider in this state must be made in writing to the commissioner, under oath, in the form prescribed by the commissioner, and must contain:

- (1) the full name of each principal of the entity applying;
- (2) the address, which must not be a post office box, and the telephone number and, if applicable, the e-mail address, of the applicant;
- (3) consent to the jurisdiction of the courts of this state;
- (4) the name and address of the registered agent authorized to accept service of process on behalf of the applicant or appointment of the commissioner as the applicant's agent for purposes of accepting service of process;
- (5) disclosure of:
  - (i) whether any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt settlement services or involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;
  - (ii) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant or any officer, director, manager, or shareholder owning more than five percent interest in the applicant, unresolved or otherwise, filed or otherwise commenced within the preceding ten years;
  - (iii) whether the applicant or any person employed by the applicant has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings; and
  - (iv) whether the applicant's license or registration to provide debt settlement services in any other state has ever been revoked or suspended;
- (6) a copy of the applicant's standard debt settlement services agreement that the applicant intends to execute with debtors;
- (7) proof of accreditation, unless the applicant submits an affidavit attesting that the applicant does not provide credit counseling services; and
- (8) any other information and material as the commissioner may require.

The commissioner may, for good cause shown, temporarily waive any requirement of this subdivision.

Subd. 2. **Term and scope of registration.** A registration is effective until 11:59 p.m. on December 31 of the year for which the application for registration is filed or until it is surrendered by the registrant or revoked or suspended by the commissioner. The registration is limited solely to the business of providing debt settlement services.

Subd. 3. **Fees; bond.** An applicant for registration as a debt settlement services provider must comply with the requirements of section 332A.04, subdivisions 3, 4, and 5.

Subd. 4. **Right of action on bond.** If the registrant has failed to account to a debtor, or has failed

to perform any of the services promised, the registrant is in default. The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Subd. 5. **Registrant list.** The commissioner must maintain a list of registered debt settlement services providers. The list must be made available to the public in written form upon request and on the Department of Commerce Web site.

Subd. 6. **Renewal of registration.** Each year, each registrant under the provisions of this chapter must, not more than 60 nor less than 30 days before its registration is to expire, apply to the commissioner for renewal of its registration on a form prescribed by the commissioner. The application must be signed by the registrant under penalty of perjury, contain current information on all matters required in the original application, and be accompanied by a payment of \$250. The registrant must maintain a continuous surety bond that satisfies the requirements of section 332A.04, subdivision 4. The renewal is effective for one year. The commissioner may, for good cause shown, temporarily waive any requirement of this section.

Sec. 22. **[332B.05] DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF REGISTRATION.**

Subdivision 1. **Denial.** The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration for any of the reasons specified under section 332A.08.

Subd. 2. **Suspension, revocation, or nonrenewal.** The commissioner may suspend, revoke, or refuse to renew any registration issued under this chapter, or may levy a civil penalty under section 45.027, or any combination of actions, if the debt settlement services provider or any controlling or affiliated person has committed any act or omission for which the commissioner could have refused to issue an initial registration.

Subd. 3. **Procedure.** Suspension, revocation, or nonrenewal must be upon notice and under the conditions prescribed in section 332A.09, subdivision 1. Upon issuance of an order suspending, revoking, or refusing to renew a registration, the commissioner:

- (1) shall follow the procedure established in section 332A.09, subdivision 2; and
- (2) may follow the procedure specified in section 332A.09, subdivision 3, concerning the appointment of a receiver for funds of sanctioned registrants.

Sec. 23. **[332B.06] WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.**

Subdivision 1. **Written agreement required.** (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor and complies with all the applicable requirements of this chapter.

- (b) A debt settlement services agreement must:

- (1) be in writing, dated, and signed by the debt settlement services provider and the debtor;
  - (2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and
  - (3) be written in the debtor's primary language if the debt settlement services provider advertises in that language.
- (c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to executing a written agreement.** No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

- (1) informed the debtor, in writing, that debt settlement is not appropriate for all debtors and that there are other ways to deal with debt, including using credit counseling or debt management services, or filing bankruptcy;
- (2) prepared in writing and provided to the debtor, in a form the debtor may keep, an individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:
  - (i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;
  - (ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and
  - (iii) based on the totality of the circumstances, there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan; and
- (3) provided, on a document separate from any other document, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

Subd. 3. **Determination concerning creditor participation.** (a) Before executing a debt settlement services agreement or providing any services, a debt settlement services provider must make a determination, supported by sufficient bases, which creditors listed by the debtor are reasonably likely, and which are not reasonably likely, to participate in the debt settlement services plan set forth in the debt settlement services agreement.

(b) A debt settlement services provider has a defense against a claim that no sufficient basis existed to make a determination that a creditor was likely to participate if the debt settlement services provider can produce:

- (1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settlement services provider were engaged in negotiations to settle a debt for another debtor; or
  - (2) evidence that the provider and the creditor had entered into a settlement of a debt within the six months prior to the date of the determination.
- (c) The debt settlement services provider must notify the debtor as soon as practicable after the

provider has made a determination of the likelihood of participation or nonparticipation of all the creditors listed for inclusion in the debt settlement services agreement or debt settlement services plan. If not all creditors listed in the debt settlement services agreement are reasonably likely to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the likely participation of all listed creditors.

Subd. 4. **Disclosures.** (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

**CAUTION**

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

If you stop paying your creditors, there is a strong likelihood some or all of the following may happen:

- YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.
- YOU MAY STILL BE CONTACTED BY CREDITORS.
- YOU MAY STILL BE SUED BY CREDITORS for the money you owe.
- FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected.

(c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosures and notices required under this subdivision must be provided in the debtor's primary language if the debt settlement services provider advertises in that language.

Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain on the front page of the agreement, segregated by bold lines from all other information on the page and disclosed prominently and clearly in bold print, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 7. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose of writing exchange checks for no longer than 42 days. If the registrant holds debtor funds, the registrant must maintain a separate trust account, except that the registrant may commingle debtor funds with the registrant's own funds, in the form of an imprest fund, to the extent necessary to ensure maintenance of a minimum balance, if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance.

Sec. 24. **[332B.07] RIGHT TO CANCEL.**

Subdivision 1. **Debtor's right to cancel.** (a) A debtor has the right to cancel a debt settlement services agreement without cause at any time upon ten days' written notice to the debt settlement services provider.

(b) In the event of cancellation, the debt settlement services provider must, within ten days of the cancellation, notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement agreement, in communication, of the cancellation and immediately refund all fees paid by the debtor to the debt settlement services provider that exceed the fees allowed under section 332B.09.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

Subd. 2. **Notice of debtor's right to cancel.** A debt settlement services agreement must contain, on its face, in an easily readable type immediately adjacent to the space for signature by the debtor, the following notice: "Right to Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Subd. 3. **Automatic termination.** Upon the payment of all listed or settled debts and fees, the debt settlement services agreement must automatically terminate, and all funds held by the debt settlement services provider that exceed the fees allowed under section 332B.09 must be immediately returned to the debtor.

Subd. 4. **Debt settlement services provider's right to cancel.** (a) A debt settlement services provider may cancel a debt settlement services agreement with good cause upon 30 days' written notice to the debtor.

(b) Within ten days after the cancellation, the debt settlement services provider must notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement services agreement, in communication, of the cancellation.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

(d) A debt settlement services provider is entitled to the full amount of the fees provided for in the debt settlement services agreement if the provider can show that:

(1) the provider obtained a settlement offer from the creditor or creditors in accordance with the debt settlement services agreement;

(2) the debtor rejected the settlement offer; or

(3) within the period contemplated in the debt settlement services agreement, the debtor entered into a settlement agreement with the same creditor or creditors for an amount equal to or lower than the settlement offer obtained by the provider.

#### Sec. 25. [332B.08] **BOOKS, RECORDS, AND INFORMATION.**

Subdivision 1. **Records retention; annual report.** Every registrant must keep, and use in the registrant's business, such books, accounts, and records, including electronic records, as will enable the commissioner to determine whether the registrant is complying with this chapter and the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Annual report.** On or before March 15 of each calendar year, each registrant must file a report with the commissioner containing information the commissioner may require about the preceding calendar year. The report must be in a form the commissioner prescribes.

Subd. 3. **Statements to debtors.** (a) Each registrant must:

(1) maintain and make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors, if any. A statement showing amounts received from the debtor, disbursements, if any, to each creditor, amounts that any creditor has agreed to as payment in full for any debt owed the creditor by the debtor, fees deducted by the registrant, and other information the commissioner may prescribe, must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract;

(2) include in the statement furnished to debtors a list of all activities conducted pursuant to the contract, including the nature of communications and progress of negotiations with each creditor during the reporting period; and

(3) prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practicable.

(b) Each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential, except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees.

**Sec. 26. [332B.09] FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION TO DEBTOR OF SETTLEMENT OFFER.**

Subdivision 1. **Choice of fee structure.** A debt settlement services provider may calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee structure shall be clearly disclosed and explained in the debt settlement services agreement.

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) \$200 on aggregate debt of less than \$20,000; or

(ii) \$400 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

(i) no greater than \$50 per month on aggregate debt of less than \$40,000; and

(ii) no greater than \$60 per month on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

(b) When a settlement offer is obtained by a debt settlement services provider from a creditor, the collection of any monthly fees shall cease beginning the month following the month in which the settlement offer was obtained by the debt settlement services provider.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 3. **Fees as a percentage of savings.** (a) The total amount of the fees claimed, demanded,

charged, collected, or received under this subdivision shall be calculated as 30 percent of the savings actually negotiated by the debt settlement services provider. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) \$300 on aggregate debt of less than \$20,000; or

(ii) \$500 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

(i) no greater than \$65 on aggregate debt of less than \$40,000; and

(ii) no greater than \$75 on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 30 percent of the savings, as calculated under paragraph (a).

(b) The collection of monthly fees shall cease under this subdivision when the total of monthly fees and the origination fee equals 50 percent of the total fees allowable under this subdivision. For the purposes of this subdivision, 50 percent of the total fees allowable shall assume a settlement of 50 cents on the dollar.

(c) In no event may more than 50 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation may be claimed, demanded, charged, collected, or received other than the fees allowed under this section. Any fees collected in excess of those allowed under this section must be immediately returned to the debtor.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify the debt settlement services agreement, unless at least 50 percent of the listed creditors withdraw, in which case the debt settlement services provider must notify the debtor of the debtor's right to cancel. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement offer.** A debt settlement services provider must make all reasonable efforts to notify the debtor within 24 hours of a settlement offer made by a creditor.

Sec. 27. **[332B.10] PROHIBITIONS.**

No debt settlement services provider shall:

- (1) engage in any activity, act, or omission prohibited under section 332A.14;
- (2) promise, guarantee, or directly or indirectly imply, infer, or in any manner represent that any debt will be settled prior to the presentation to the debtor of an offer by the creditors participating in the debt settlement plan to settle;
- (3) misrepresent the timing of negotiations with creditors;
- (4) imply, infer, or in any manner represent that:
  - (i) fees, interest, and other charges will not continue to accrue prior to the time debts are settled;
  - (ii) wages or bank accounts are not subject to garnishment;
  - (iii) creditors will not continue to contact the debtor;
  - (iv) the debtor is not subject to legal action; and
  - (v) the debtor will not be subject to tax consequences for the portion of any debts forgiven;
- (5) execute a power of attorney or any other agreement, oral or written, express or implied, that extinguishes or limits the debtor's right at any time to contract or communicate with any creditor or the creditor's right at any time to communicate with the debtor;
- (6) exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;
- (7) state, imply, infer, or, in any other manner, indicate that entering into a debt settlement services agreement or settling debts will either have no effect on, or improve, the debtor's credit, credit rating, and credit score;
- (8) challenge a debt without the written consent of the debtor;
- (9) make any false or misleading claim regarding a creditor's right to collect a debt;
- (10) falsely represent that the debt settlement services provider can negotiate better settlement terms with a creditor than the debtor alone can negotiate;
- (11) provide or offer to provide legal advice or legal services unless the person providing or offering to provide legal advice is licensed to practice law in the state;
- (12) misrepresent that it is authorized or competent to furnish legal advice or perform legal services; and
- (13) settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification from the creditor that the payment is in full settlement of the debt.

**Sec. 28. [332B.11] ADVERTISEMENT AND SOLICITATION OF DEBT SETTLEMENT SERVICES.**

Subdivision 1. **Advertisement.** No debt settlement services provider or lead generator may:

(1) make any false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt settlement services plan, or create the likelihood of consumer confusion or misunderstanding regarding its services;

(2) represent that the debt settlement services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt settlement services will be provided by a for-profit company that is a controlling or affiliated party to the debt settlement services provider;

(3) make any communication that gives the impression that the debt settlement services provider is acting on behalf of a government agency; or

(4) represent, claim, imply, or infer that secured debts may be settled.

Subd. 2. **Solicitation by lead generators.** (a) In all print, electronic, and nonprint solicitations, including Web sites and radio or television advertising, a lead generator must prominently make the following verbatim disclosure: "This company does not actually provide any debt settlement, debt consolidation, or other credit counseling services. We ONLY refer you to companies that want to provide some or all of those services."

(b) A lead generator may not, in any advertising or solicitation to debtors:

(1) represent that any service is guaranteed; or

(2) misrepresent the benefits of its services or debt settlement or consolidation in comparison to credit counseling, debt management, or bankruptcy.

**Sec. 29. [332B.12] DEBT SETTLEMENT SERVICES AGREEMENT RESCISSION.**

Any debtor has the right to rescind any debt settlement services agreement with a debt settlement services provider that commits a material violation of this chapter. On rescission, all fees paid to the debt settlement services provider or any other person other than creditors of the debtor must be returned to the debtor entering into the debt settlement services agreement within ten days of rescission of the debt settlement services agreement.

**Sec. 30. [332B.13] ENFORCEMENT; REMEDIES.**

Subdivision 1. **Violation as deceptive practice.** A violation of any of the provisions of this chapter is considered an unfair or deceptive trade practice under section 8.31, subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in the public interest.

Subd. 2. **Private right of action.** (a) A debt settlement provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable under this section in an individual action for the sum of:

(1) actual, incidental, and consequential damages sustained by the debtor as a result of the failure; and

(2) statutory damages of up to \$5,000.

(b) A debt settlement provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable to the named plaintiffs under this section in a class action for the amount that each named plaintiff could recover under paragraph (a), clause (1), and to the other class members for such amount as the court may allow.

(c) In determining the amount of statutory damages, the court shall consider, among other relevant factors:

- (1) the frequency, nature, and persistence of noncompliance;
- (2) the extent to which the noncompliance was intentional; and
- (3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** (a) A debtor may sue a debt settlement services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt settlement services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt settlement services provider violated any provision of this chapter.

(b) A debtor may sue a lead generator for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of section 332B.11. A court must grant injunctive relief on a showing that the lead generator has violated section 332B.11, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the lead generator violated section 332B.11.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

### Sec. 31. [332B.14] INVESTIGATIONS.

At any reasonable time, the commissioner may examine the books and records of every registrant and of any person engaged in the business of providing debt settlement services. The commissioner, once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for environment, natural resources, and energy; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste

management reporting requirements; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; extending certain land sale requirements; prohibiting certain sales of outdoor recreation system lands; providing for exchange of riparian land; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; modifying feedlot permit and grant provisions; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing, modifying, and authorizing fees and surcharges; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; modifying prior appropriations; prohibiting certain reorganizations; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring studies and reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; providing for green enterprise assistance; modifying provisions related to insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.922, subdivision 1a; 84D.15, subdivision 2; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 92.685; 93.481, subdivisions 1, 3, 5, 7; 94.342, subdivision 3; 97A.075, subdivision 1; 103G.271, subdivision 6; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 1; 115A.931; 116.0711; 116.41, subdivision 2; 116C.834, subdivision 1; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 332A.16; Laws 2005, chapter 156, article 2, section 45, as amended; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 86A; 93; 115A; 116; 116J; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140."

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

House Conferees: (Signed) Jean Wagenius, Bill Hilty, Kate Knuth, Rick Hansen, Jenifer Loon

Senate Conferees: (Signed) Ellen Anderson, Tom Saxhaug, Satveer Chaudhary, Dennis Frederickson, Patricia Torres Ray

Senator Anderson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2123 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2123 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 15, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Latz	Pogemiller	Skoe
Bakk	Dille	Lourey	Prettner Solon	Skogen
Berglin	Doll	Lynch	Rest	Sparks
Betzold	Erickson Ropes	Marty	Rosen	Stumpf
Bonoff	Fobbe	Metzen	Rummel	Tomassoni
Carlson	Foley	Moua	Saltzman	Torres Ray
Chaudhary	Frederickson	Murphy	Saxhaug	Vickerman
Clark	Higgins	Olseen	Scheid	Wiger
Cohen	Kelash	Olson, G.	Senjem	
Dahle	Kubly	Olson, M.	Sheran	
Day	Langseth	Pappas	Sieben	

Those who voted in the negative were:

Fischbach	Hann	Jungbauer	Limmer	Pariseau
Gerlach	Ingebrigtsen	Koch	Michel	Robling
Gimse	Johnson	Koering	Ortman	Vanderveer

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

### MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 1091:** A bill for an act relating to transportation; restricting weight limits on the Stillwater Lift Bridge.

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

Dean, Bunn and Lillie.

Senate File No. 1091 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 1147:** A bill for an act relating to real property; modifying provisions governing orders to secure vacant property; specifying notice requirements; modifying provisions governing the reduced redemption period for abandoned property; establishing a duty to protect vacant foreclosed property under certain circumstances; providing for the imposition of fines for failure to maintain property; altering the posting requirement for trespassing on construction sites; modifying provisions governing public nuisances; imposing civil and criminal penalties; amending Minnesota Statutes 2008, sections 463.251, subdivisions 2, 3; 504B.151, subdivision 1; 504B.178, subdivision 8; 580.021, subdivision 1; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 582.031; 582.032, subdivisions 2, 4, 5; 609.605, subdivision 1; 617.80, subdivision 7, by adding a subdivision; 617.81, subdivisions 2, 4.

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

Hayden, Mullery and Holberg.

Senate File No. 1147 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

#### **RECESS**

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

#### **MEMBERS EXCUSED**

Senators Murphy and Sieben were excused from the Session of today from 11:00 to 11:30 a.m. Senator Johnson was excused from the Session of today from 11:00 to 11:40 a.m. Senator Ortman was excused from the Session of today from 11:00 to 11:50 a.m. Senator Limmer was excused from the Session of today from 7:45 to 9:10 p.m.

#### **ADJOURNMENT**

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Tuesday, May 5, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)



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