

EIGHTY-FIFTH DAY

St. Paul, Minnesota, Thursday, April 8, 2010

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, Pastor Rob Nelson.

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

Anderson	Fischbach	Koch	Pappas	Senjem
Bakk	Fobbe	Koering	Pariseau	Sheran
Berglin	Foley	Kubly	Parry	Skoe
Betzold	Frederickson	Langseth	Pogemiller	Skogen
Bonoff	Gerlach	Lynch	Prettner Solon	Sparks
Clark	Hann	Marty	Robling	Stumpf
Cohen	Ingebrigtsen	Metzen	Rosen	Tomassoni
Dahle	Johnson	Murphy	Rummel	Torres Ray
Dille	Jungbauer	Olson, G.	Saltzman	Vickerman
Erickson Ropes	Kelash	Olson, M.	Saxhaug	Wiger

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 communication was received.

April 6, 2010

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 2010 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 2010	Date Filed 2010
	1780	217	4:16 p.m. April 6	April 6
	3067	218	4:18 p.m. April 6	April 6
	3336	219	4:20 p.m. April 6	April 6
	3187	220	4:21 p.m. April 6	April 6
	3172	221	4:22 p.m. April 6	April 6
	2988	222	4:24 p.m. April 6	April 6

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 Files, herewith returned: S.F. Nos. 2267, 2840 and 2425.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 7, 2010

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2668:

H.F. No. 2668: A bill for an act relating to landlord and tenant; modifying certain procedures relating to expungement; providing procedures relating to the charging and recovery of various fees; providing certain rights to tenants of foreclosed properties; amending Minnesota Statutes 2008, sections 484.014, subdivision 3; 504B.111; 504B.173; 504B.178, subdivision 7; 504B.215, subdivision 4; 504B.271, subdivisions 1, 2; 504B.285, by adding subdivisions; 504B.291, subdivision 1; 504B.365, subdivision 4; Minnesota Statutes 2009 Supplement, section 504B.285, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 504B.

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

Mullery, Hayden and Gunther have been appointed as such committee on the part of the House.

House File No. 2668 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

Senator Pogemiller, for Senator Dibble, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2668, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3318:

H.F. No. 3318: A bill for an act relating to judiciary; enacting the Uniform Unsworn Foreign Declarations Act proposed for adoption by the National Conference of Commissioners on Uniform State Laws; providing for penalties; amending Minnesota Statutes 2008, section 609.48, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 358.

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

Hortman, Jackson and Urdahl have been appointed as such committee on the part of the House.

House File No. 3318 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

Senator Pogemiller, for Senator Moua, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3318, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3048:

H.F. No. 3048: A bill for an act relating to labor and industry; modifying construction codes and licensing provisions; modifying certain notice provisions; amending Minnesota Statutes 2008, sections 178.01; 178.03, subdivisions 3, 4; 178.06; 178.08; 178.11; 326.02, subdivision 5; 326B.04, subdivision 2; 326B.127, subdivision 3; 326B.13, subdivisions 3, 4, 5, 6; 326B.133, subdivision 5; 326B.139; 326B.142; 326B.148, subdivisions 2, 3; 326B.191; 326B.31, subdivision 28; 326B.33, subdivision 17; 326B.42, subdivisions 2, 6; 326B.435, subdivision 2; 326B.47; 326B.84; 326B.89, subdivisions 1, 5, 6, 7, 8, 10, 13, by adding subdivisions; 326B.921, subdivision 3; Minnesota Statutes 2009 Supplement, sections 14.14, subdivision 1a; 326B.145; Laws 2010, chapter 183, section 8; repealing Minnesota Statutes 2008, sections 299G.11; 299G.13, subdivisions 1, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28; 299G.14; 299G.15; 299G.16; 299G.17; 299G.18; 326B.115; 326B.37, subdivision 13; Minnesota Rules, parts 5200.0020; 5200.0050; 5200.0080, subparts 2, 3, 4, 4a, 4b, 6, 7, 8.

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

Norton, Mahoney and Magnus have been appointed as such committee on the part of the House.

House File No. 3048 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

Senator Saltzman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3048, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3391:

H.F. No. 3391: A bill for an act relating to children; modifying certain provisions relating to children in need of protection and services; amending Minnesota Statutes 2008, sections 260C.007, subdivision 6; 260C.163, subdivision 2; Minnesota Statutes 2009 Supplement, section 260C.175, subdivision 1.

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

Olin, Jackson and Kelly have been appointed as such committee on the part of the House.

House File No. 3391 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

Senator Olson, M. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3391, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3164:

H.F. No. 3164: A bill for an act relating to higher education; regulating the transfer of credits within institutions belonging to the Minnesota State Colleges and Universities system; requiring a

report; proposing coding for new law in Minnesota Statutes, chapter 136F.

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

Haws, Poppe and McFarlane have been appointed as such committee on the part of the House.

House File No. 3164 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

Senator Pogemiller, for Senator Clark, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3164, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 655.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2010

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 655: A bill for an act relating to elections; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; prohibiting placement of a candidate on the ballot if residency requirements are not met; amending Minnesota Statutes 2008, section 204B.06, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 531, now on General Orders.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted, with the exception of the report pertaining to the appointment. The motion prevailed.

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

S.F. No. 2737: A bill for an act relating to agriculture; appropriating money for livestock investment grants.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1
AGRICULTURE

Section 1. Minnesota Statutes 2009 Supplement, section 3.737, subdivision 1, is amended to read:

Subdivision 1. **Compensation required.** (a) Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a livestock owner shall be compensated by the commissioner of agriculture for livestock that is destroyed by a gray wolf or is so crippled by a gray wolf that it must be destroyed. Except as provided in this section, the owner is entitled to the fair market value of the destroyed livestock as determined by the commissioner, upon recommendation of the fair market value by a university extension agent or a conservation officer. In any fiscal year, a livestock owner may not be compensated for a destroyed animal claim that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section. In any fiscal year, the commissioner may provide compensation for claims filed under this section up to the amount expressly appropriated for this purpose.

(b) ~~Either the agent or the~~ A university extension agent, a conservation officer, an official from the Animal and Plant Health Inspection Service of the United States Department of Agriculture, or a peace officer from the county sheriff's office must make a personal inspection of the site and submit a report to the commissioner, including photographs, detailing the results of the investigation. ~~The agent or the conservation officer~~ The investigator must take into account factors in addition to a visual identification of a carcass when making a recommendation to the commissioner. The commissioner, upon recommendation of the ~~agent or conservation officer~~ investigator, shall determine whether the livestock was destroyed by a gray wolf and ~~any deficiencies in the owner's adoption of the best management practices developed in subdivision 5. The commissioner may authorize payment of claims only if the agent or the conservation officer has recommended payment.~~ The owner shall file a claim on forms provided by the commissioner and available at the university extension agent's office.

Sec. 2. Minnesota Statutes 2008, section 3.737, subdivision 4, is amended to read:

Subd. 4. **Payment; denial of compensation.** (a) If the commissioner finds that the livestock owner has shown that the loss of the livestock was likely caused by a gray wolf, the commissioner shall pay compensation as provided in this section and in the rules of the department.

(b) ~~For a gray wolf depredation claim submitted by a livestock owner after September 1, 1999, the commissioner shall, based on the report from the university extension agent and conservation officer, evaluate the claim for conformance with the best management practices developed by the commissioner in subdivision 5. The commissioner must provide to the livestock owner an itemized list of any deficiencies in the livestock owner's adoption of best management practices that were noted in the university extension agent's or conservation officer's report.~~

(e) If the commissioner denies compensation claimed by an owner under this section, the commissioner shall issue a written decision based upon the available evidence. It shall include specification of the facts upon which the decision is based and the conclusions on the material

issues of the claim. A copy of the decision shall be mailed to the owner.

~~(d)~~(c) A decision to deny compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but may be reviewed upon a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days of the filing.

Sec. 3. Minnesota Statutes 2008, section 17.03, is amended by adding a subdivision to read:

Subd. 11a. **Permitting efficiency goal and report.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a completed permit application. The commissioner of agriculture shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, steps that will be taken to complete action on the application, and the expected timeline. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, or scientific or technical disagreements or caused by the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for the final quarter of the fiscal year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department Web site and submitted to the governor and the chairs of the house of representatives and senate committees having jurisdiction over agriculture policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the department.

Sec. 4. [17.459] HORSES.

Subdivision 1. **Classification as livestock.** Horses and other equines raised for the purposes of riding, driving, farm or ranch work, competition, racing, recreation, sale, or as breeding stock are livestock. Horses and their products are livestock and farm products for purposes of financial transactions and collateral.

Subd. 2. **Agricultural pursuit.** Raising horses and other equines is agricultural production and an agricultural pursuit.

Subd. 3. **Nonapplicability for property tax laws.** This section does not apply to the treatment of land used for raising horses under chapter 273.

Sec. 5. Minnesota Statutes 2008, section 18B.31, subdivision 5, is amended to read:

Subd. 5. **Application fee.** (a) An application for a pesticide dealer license must be accompanied by a nonrefundable application fee of \$150.

(b) If an application for renewal of a pesticide dealer license is not filed before ~~January 1 of the year for which the license is to be issued~~ expires, an additional fee of ~~\$20~~ 50 percent of the application fee must be paid by the applicant before the commissioner may issue the license is issued.

Sec. 6. Minnesota Statutes 2009 Supplement, section 18B.316, subdivision 10, is amended to read:

Subd. 10. **Application fee.** (a) An application for an agricultural pesticide dealer license, or a renewal of an agricultural pesticide dealer license, must be accompanied by a nonrefundable fee of \$150.

(b) If an application for renewal of an agricultural pesticide dealer license is not filed before ~~January of the year for which the license is to be issued~~ expires, an additional fee of 50 percent of the application fee must be paid by the applicant before the commissioner may issue the license.

Sec. 7. Minnesota Statutes 2008, section 18B.36, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except for a licensed commercial or noncommercial applicator, only a certified private applicator may use a restricted use pesticide to produce an agricultural commodity:

- (1) as a traditional exchange of services without financial compensation;
- (2) on a site owned, rented, or managed by the person or the person's employees; or
- (3) when the private applicator is one of two or fewer employees and the owner or operator is a certified private applicator or is licensed as a noncommercial applicator.

(b) A ~~private applicator person~~ person may not purchase a restricted use pesticide without presenting a license card, certified private applicator card, or the card number.

Sec. 8. Minnesota Statutes 2008, section 18B.37, subdivision 4, is amended to read:

Subd. 4. **Storage, handling, incident response, and disposal plan.** A ~~commercial pesticide dealer, agricultural pesticide dealer, or a commercial, noncommercial, or structural pest control applicator~~ pesticide dealer, agricultural pesticide dealer, or a commercial, noncommercial, or structural pest control applicator or the business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, incident response, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Sec. 9. Minnesota Statutes 2008, section 18G.07, is amended to read:

18G.07 TREE CARE AND TREE TRIMMING COMPANY ~~REGISTRY~~ REGISTRATION.

Subdivision 1. **Creation of registry.** (a) The commissioner shall maintain a list of all persons and companies that provide tree care or tree trimming services in Minnesota. All tree care providers, tree trimmers, and persons who remove trees, limbs, branches, brush, or shrubs for hire and advertise their services must provide the following information to be registered by the commissioner:

(b) Persons or companies who are required to be registered under paragraph (a), must register annually by providing the following to the commissioner:

(1) accurate and up-to-date business name, address, and telephone number;

(2) a complete list of all Minnesota counties in which they work; and

~~(3) a complete list of persons in the business who are certified by the International Society of Arborists~~ a nonrefundable fee of \$25 for initial application or renewing the registration.

(c) All persons and companies required to be registered under paragraph (a) must register before conducting the activities specified in paragraph (a). Annual registration expires December 31, must be renewed annually, and the renewal fee remitted by January 7 of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Subd. 2. **Information dissemination.** The commissioner shall provide registered tree care companies with information and data regarding any existing or potential regulated forest pest infestations within the state.

Subd. 3. **Violation.** It is unlawful for a person who is required to be registered under subdivision 1 to provide tree care or tree trimming services in Minnesota without being registered with the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 28A.082, subdivision 1, is amended to read:

Subdivision 1. **Fees; application.** The fees for review of food handler facility floor plans under the Minnesota Food Code are based upon the square footage of the structure being newly constructed, remodeled, or converted. The fees for the review shall be:

square footage	review fee
0 - 4,999	\$ 200.00
5,000 - 24,999	\$ 275.00
25,000 plus	\$ 425.00

The applicant must submit the required fee, review application, plans, equipment specifications, materials lists, and other required information on forms supplied by the department at least 30 days prior to commencement of construction, remodeling, or conversion. The commissioner may waive this fee after determining that the facility's principal mode of business is not the sale of food and that the facility sells only prepackaged foods.

Sec. 11. Minnesota Statutes 2008, section 35.244, subdivision 1, is amended to read:

Subdivision 1. **Designation of zones.** ~~The board has the authority to~~ may establish zones for the control and eradication of tuberculosis and restrict the movement of cattle, bison, goats, and farmed cervidae within and between tuberculosis zones in the state. ~~Zones within the state may be designated as accreditation preparatory, modified accredited, modified accredited advanced, or~~

~~accredited free as those terms are defined in Code of Federal Regulations, title 9, part 77. The board may designate bovine tuberculosis control zones that contain not more than 325 herds.~~

Sec. 12. Minnesota Statutes 2008, section 35.244, subdivision 2, is amended to read:

Subd. 2. **Requirements within a tuberculosis control zone.** ~~within modified accredited zone.~~ In a ~~modified accredited~~ tuberculosis control zone, the board ~~has the authority to~~ may:

(1) require owners of cattle, bison, goats, or farmed cervidae to report personal contact information and location of livestock to the board;

(2) require a permit or movement certificates for all cattle, bison, goats, and farmed cervidae moving between premises within the zone or leaving or entering the zone;

(3) require official identification of all cattle, bison, goats, and farmed cervidae within the zone or leaving or entering the zone;

(4) require a whole-herd tuberculosis test on each herd of cattle, bison, goats, or farmed cervidae when any of the animals in the herd is kept on a premises within the zone;

(5) require a negative tuberculosis test within 60 days prior to movement for any individual cattle, bison, goat, or farmed cervidae moved from a premises in the zone to another location in Minnesota, with the exception of cattle moving under permit directly to a slaughter facility under state or federal inspection;

(6) require a whole-herd tuberculosis test within 12 months prior to moving cattle, bison, goats, or farmed cervidae from premises in the zone to another location in Minnesota;

(7) require annual herd inventories on all cattle, bison, goat, or farmed cervidae herds; and

(8) require that a risk assessment be performed to evaluate the interaction of free-ranging deer and elk with cattle, bison, goat, and farmed cervidae herds and require the owner to implement the recommendations of the risk assessment.

Sec. 13. **[38.345] APPROPRIATIONS BY MUNICIPALITIES.**

The council of any city and the board of supervisors of any town may spend money for county extension work, as provided in sections 38.33 to 38.38.

Sec. 14. Minnesota Statutes 2008, section 239.092, is amended to read:

239.092 SALE FROM BULK.

(a) Bulk sales of commodities, when the buyer and seller are not both present to witness the measurement, must be accompanied by a delivery ticket containing the following information:

(1) the name and address of the person who weighed or measured the commodity;

(2) the date delivered;

(3) the quantity delivered;

(4) the count of individually wrapped packages delivered, if more than one is included in the quantity delivered;

(5) the quantity on which the price is based, if different than the quantity delivered; and

(6) the identity of the commodity in the most descriptive terms commercially practicable, including representations of quality made in connection with the sale.

(b) This section is not intended to conflict with the bulk sale requirements of the Department of Agriculture. If a conflict occurs, the law and rules of the Department of Agriculture govern.

(c) Firewood sold or distributed across state boundaries or more than 100 miles from its origin must include delivery ticket information regarding the harvest locations of the wood by county and state.

(d) Paragraph (c) may be enforced using the authority granted in this chapter or section 18J.05 or 84D.13.

Sec. 15. Minnesota Statutes 2008, section 239.093, is amended to read:

239.093 INFORMATION REQUIRED WITH PACKAGE.

(a) A package offered, exposed, or held for sale must bear a clear and conspicuous declaration of:

(1) the identity of the commodity in the package, unless the commodity can be easily identified through the wrapper or container;

(2) the net quantity in terms of weight, measure, or count;

(3) the name and address of the manufacturer, packer, or distributor, if the packages were not produced on the premises where they are offered, exposed, or held for sale; and

(4) the unit price, if the packages are part of a lot containing random weight packages of the same commodity.

(b) This section is not intended to conflict with the packaging requirements of the Department of Agriculture. If a conflict occurs, the laws and rules of the Department of Agriculture govern.

(c) Firewood sold or distributed across state boundaries or more than 100 miles from its origin must include information regarding the harvest locations of the wood by county and state on each label or wrapper.

(d) Paragraph (c) may be enforced using the authority granted in this chapter or section 18J.05 or 84D.13.

Sec. 16. Minnesota Statutes 2008, section 500.221, subdivision 2, is amended to read:

Subd. 2. **Aliens and non-American corporations.** Except as hereinafter provided, no natural person shall acquire directly or indirectly any interest in agricultural land unless the person is a citizen of the United States or a permanent resident alien of the United States. In addition to the restrictions in section 500.24, no corporation, partnership, limited partnership, trustee, or other business entity shall directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial or otherwise, in any title to agricultural land unless at least 80 percent of each class of stock issued and outstanding or 80 percent of the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens. This section

shall not apply:

(1) to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise. All agricultural land acquired in the collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership;

(2) to citizens or subjects of a foreign country whose rights to hold land are secured by treaty;

(3) to lands used for transportation purposes by a common carrier, as defined in section 218.011, subdivision 10;

(4) to lands or interests in lands acquired for use in connection with (i) the production of timber and forestry products by a corporation organized under the laws of Minnesota, or (ii) mining and mineral processing operations. Pending the development of agricultural land for the production of timber and forestry products or mining purposes the land may not be used for farming except under lease to a family farm, a family farm corporation or an authorized farm corporation;

(5) to agricultural land operated for research or experimental purposes if the ownership of the agricultural land is incidental to the research or experimental objectives of the person or business entity and the total acreage owned by the person or business entity does not exceed the acreage owned on May 27, 1977;

(6) to the purchase of any tract of 40 acres or less for facilities incidental to pipeline operation by a company operating a pipeline as defined in section 216G.01, subdivision 3;

(7) to agricultural land and land capable of being used as farmland in vegetable processing operations that is reasonably necessary to meet the requirements of pollution control law or rules; ~~or~~

(8) to an interest in agricultural land held on the August 1, 2003, by a natural person with a nonimmigrant treaty investment visa, pursuant to United States Code, title 8, section 1101(a)15(E)(ii), if, within five years after August 1, 2003, the person:

(i) disposes of all agricultural land held; or

(ii) becomes a permanent resident alien of the United States or a United States citizen; ~~or~~

(9) to an easement taken by an individual or entity for the installation and repair of transmission lines and for wind rights.

Sec. 17. Minnesota Statutes 2008, section 500.221, subdivision 4, is amended to read:

Subd. 4. **Reports.** (a) Any natural person, corporation, partnership, limited partnership, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land lawfully acquired within this state prior to June 1, 1981, but shall file a report with the commissioner of agriculture annually before January 31 containing a description of all agricultural land held within this state, the purchase price and market value of the land, the use to which it is put, the date of acquisition and any other reasonable information required by the commissioner.

(b) An individual or entity that qualifies for an exemption under subdivision 2, clause (2) or

(9), and owns an interest in agricultural land shall file a report with the commissioner of agriculture within 30 days of acquisition and annually thereafter by January 31, containing a description of all interests in agricultural land held within this state, the purchase price of the interest and market value of the land, the use to which it is put, the date of acquisition, and any other reasonable information required by the commissioner.

(c) The commissioner shall make the information available to the public.

(d) All required annual reports shall include a filing fee of \$50 plus \$10 for each additional quarter section of land.

Sec. 18. Minnesota Statutes 2008, section 500.24, subdivision 2, is amended to read:

Subd. 2. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include the processing, refining, or packaging of said products, nor the provision of spraying or harvesting services by a processor or distributor of farm products. It does not include the production of timber or forest products, the production of poultry or poultry products, or the feeding and caring for livestock that are delivered to a corporation for slaughter or processing for up to 20 days before slaughter or processing.

(b) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

(c) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the stock is held by and the majority of the stockholders are persons, the spouses of persons, or current beneficiaries of one or more family farm trusts in which the trustee holds stock in a family farm corporation, related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any:

(1) transfer of shares of stock to a person or the spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of shares of stock to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of the shares in the family farm corporation, and stock owned by a family farm trust are considered to be owned in equal shares by the current beneficiaries.

(d) "Family farm trust" means:

(1) a trust in which:

(i) a majority of the current beneficiaries are persons or spouses of persons who are related to each other within the third degree of kindred according to the rules of civil law;

(ii) all of the current beneficiaries are natural persons or nonprofit corporations or trusts described in the Internal Revenue Code, section 170(c), as amended, and the regulations under that section; and

(iii) one of the family member current beneficiaries is residing on or actively operating the farm; or the trust leases the agricultural land to a family farm unit, a family farm corporation, an authorized farm corporation, an authorized livestock farm corporation, a family farm limited liability company, a family farm trust, an authorized farm limited liability company, a family farm partnership, or an authorized farm partnership; or

(2) a charitable remainder trust as defined in the Internal Revenue Code, section 664, as amended, and the regulations under that section, and a charitable lead trust as set forth in the Internal Revenue Code, section 170(f), and the regulations under that section.

(e) "Authorized farm corporation" means a corporation meeting the following standards:

(1) it has no more than five shareholders, provided that for the purposes of this section, a husband and wife are considered one shareholder;

(2) all its shareholders, other than any estate, are natural persons or a family farm trust;

(3) it does not have more than one class of shares;

(4) its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts;

(5) shareholders holding 51 percent or more of the interest in the corporation reside on the farm or are actively engaging in farming;

(6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(7) none of its shareholders are shareholders in other authorized farm corporations that directly or indirectly in combination with the corporation own more than 1,500 acres of agricultural land.

(f) "Authorized livestock farm corporation" means a corporation formed for the production of livestock and meeting the following standards:

(1) it is engaged in the production of livestock other than dairy cattle;

(2) all its shareholders, other than any estate, are natural persons, family farm trusts, or family farm corporations;

(3) it does not have more than one class of shares;

(4) its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts;

(5) shareholders holding 75 percent or more of the control, financial, and capital investment in

the corporation are farmers, and at least 51 percent of the required percentage of farmers are actively engaged in livestock production;

(6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(7) none of its shareholders are shareholders in other authorized farm corporations that directly or indirectly in combination with the corporation own more than 1,500 acres of agricultural land.

(g) "Agricultural land" means real estate used for farming or capable of being used for farming in this state.

(h) "Pension or investment fund" means a pension or employee welfare benefit fund, however organized, a mutual fund, a life insurance company separate account, a common trust of a bank or other trustee established for the investment and reinvestment of money contributed to it, a real estate investment trust, or an investment company as defined in United States Code, title 15, section 80a-3.

(i) "Farm homestead" means a house including adjoining buildings that has been used as part of a farming operation or is part of the agricultural land used for a farming operation.

(j) "Family farm partnership" means a limited partnership formed for the purpose of farming and the ownership of agricultural land in which the majority of the interests in the partnership is held by and the majority of the partners are natural persons or current beneficiaries of one or more family farm trusts in which the trustee holds an interest in a family farm partnership related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on the farm, actively operating the farm, or the agricultural land was owned by one or more of the related persons for a period of five years before its transfer to the limited partnership, and none of the partners is a corporation. A family farm partnership does not cease to qualify as a family farm partnership because of a:

(1) transfer of a partnership interest to a person or spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer or to a family farm trust of which the partner, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of a partnership interest to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the partner, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of a partnership interest in the family farm partnership, and interest owned by a family farm trust is considered to be owned in equal shares by the current beneficiaries.

(k) "Authorized farm partnership" means a limited partnership meeting the following standards:

(1) it has been issued a certificate from the secretary of state or is registered with the county recorder and farming and ownership of agricultural land is stated as a purpose or character of the business;

(2) it has no more than five partners;

- (3) all its partners, other than any estate, are natural persons or family farm trusts;
- (4) its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts;
- (5) its general partners hold at least 51 percent of the interest in the land assets of the partnership and reside on the farm or are actively engaging in farming not more than 1,500 acres as a general partner in an authorized limited partnership;
- (6) its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;
- (7) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and
- (8) none of its limited partners are limited partners in other authorized farm partnerships that directly or indirectly in combination with the partnership own more than 1,500 acres of agricultural land.

(l) "Family farm limited liability company" means a limited liability company founded for the purpose of farming and the ownership of agricultural land in which the majority of the membership interests is held by and the majority of the members are natural persons, or current beneficiaries of one or more family farm trusts in which the trustee holds an interest in a family farm limited liability company related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on the farm, actively operating the farm, or the agricultural land was owned by one or more of the related persons for a period of five years before its transfer to the limited liability company, and none of the members is a corporation or a limited liability company. A family farm limited liability company does not cease to qualify as a family farm limited liability company because of:

(1) a transfer of a membership interest to a person or spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer or to a family farm trust of which the member, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of a membership interest to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the member, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of a membership interest in the family farm limited liability company, and interest owned by a family farm trust is considered to be owned in equal shares by the current beneficiaries. Except for a state or federally chartered financial institution acquiring an encumbrance for the purpose of security or an interest under paragraph (x), a member of a family farm limited liability company may not transfer a membership interest, including a financial interest, to a person who is not otherwise eligible to be a member under this paragraph.

(m) "Authorized farm limited liability company" means a limited liability company meeting the following standards:

- (1) it has no more than five members;
- (2) all its members, other than any estate, are natural persons or family farm trusts;
- (3) it does not have more than one class of membership interests;
- (4) its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts;
- (5) members holding 51 percent or more of both the governance rights and financial rights in the limited liability company reside on the farm or are actively engaged in farming;
- (6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and
- (7) none of its members are members in other authorized farm limited liability companies that directly or indirectly in combination with the authorized farm limited liability company own more than 1,500 acres of agricultural land.

Except for a state or federally chartered financial institution acquiring an encumbrance for the purpose of security or an interest under paragraph (x), a member of an authorized farm limited liability company may not transfer a membership interest, including a financial interest, to a person who is not otherwise eligible to be a member under this paragraph.

(n) "Farmer" means a natural person who regularly participates in physical labor or operations management in the person's farming operation and files "Schedule F" as part of the person's annual Form 1040 filing with the United States Internal Revenue Service.

(o) "Actively engaged in livestock production" means performing day-to-day physical labor or day-to-day operations management that significantly contributes to livestock production and the functioning of a livestock operation.

(p) "Research or experimental farm" means a corporation, limited partnership, pension, investment fund, or limited liability company that owns or operates agricultural land for research or experimental purposes, provided that any commercial sales from the operation are incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, limited liability company, or pension or investment fund seeking initial approval by the commissioner to operate agricultural land for research or experimental purposes must first submit to the commissioner a prospectus or proposal of the intended method of operation containing information required by the commissioner including a copy of any operational contract with individual participants.

(q) "Breeding stock farm" means a corporation, limited partnership, or limited liability company, that owns or operates agricultural land for the purpose of raising breeding stock, including embryos, for resale to farmers or for the purpose of growing seed, wild rice, nursery plants, or sod. An entity that is organized to raise livestock other than dairy cattle under this paragraph that does not qualify as an authorized farm corporation must:

- (1) sell all castrated animals to be fed out or finished to farming operations that are neither directly nor indirectly owned by the business entity operating the breeding stock operation; and
- (2) report its total production and sales annually to the commissioner.

(r) "Aquatic farm" means a corporation, limited partnership, or limited liability company, that owns or leases agricultural land as a necessary part of an aquatic farm as defined in section 17.47, subdivision 3.

(s) "Religious farm" means a corporation formed primarily for religious purposes whose sole income is derived from agriculture.

(t) "Utility corporation" means a corporation regulated under Minnesota Statutes 1974, chapter 216B, that owns agricultural land for purposes described in that chapter, or an electric generation or transmission cooperative that owns agricultural land for use in its business if the land is not used for farming except under lease to a family farm unit, a family farm corporation, a family farm trust, a family farm partnership, or a family farm limited liability company.

(u) "Development organization" means a corporation, limited partnership, limited liability company, or pension or investment fund that has an interest in agricultural land for which the corporation, limited partnership, limited liability company, or pension or investment fund has documented plans to use and subsequently uses the land within six years from the date of purchase for a specific nonfarming purpose, or if the land is zoned nonagricultural, or if the land is located within an incorporated area. A corporation, limited partnership, limited liability company, or pension or investment fund may hold agricultural land in the amount necessary for its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, the land may not be used for farming except under lease to a family farm unit, a family farm corporation, a family farm trust, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, an authorized farm partnership, a family farm limited liability company, or an authorized farm limited liability company, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation that has entered into an agreement with the United States under the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, United States Code, title 42, sections 3901 to 3914) as amended, or a subsidiary or assign of such a corporation.

(v) "Exempt land" means agricultural land owned or leased by a corporation as of May 20, 1973, agricultural land owned or leased by a pension or investment fund as of May 12, 1981, agricultural land owned or leased by a limited partnership as of May 1, 1988, or agricultural land owned or leased by a trust as of the effective date of Laws 2000, chapter 477, including the normal expansion of that ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, for a corporation; May 12, 1981, for a pension or investment fund; May 1, 1988, for a limited partnership, or the effective date of Laws 2000, chapter 477, for a trust, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules. A corporation, limited partnership, or pension or investment fund that is eligible to own or lease agricultural land under this section prior to May 1997, or a corporation that is eligible to own or lease agricultural land as a benevolent trust under this section prior to the effective date of Laws 2000, chapter 477, may continue to own or lease agricultural land subject to the same conditions and limitations as previously allowed.

(w) "Gifted land" means agricultural land acquired as a gift, either by grant or devise, by an educational, religious, or charitable nonprofit corporation, limited partnership, limited liability company, or pension or investment fund if all land so acquired is disposed of within ten years after acquiring the title.

(x) "Repossessed land" means agricultural land acquired by a corporation, limited partnership, limited liability company, or pension or investment fund by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim on the land, whether created by mortgage or otherwise if all land so acquired is disposed of within five years after acquiring the title. The five-year limitation is a covenant running with the title to the land against any grantee, assignee, or successor of the pension or investment fund, corporation, limited partnership, or limited liability company. The land so acquired must not be used for farming during the five-year period, except under a lease to a family farm unit, a family farm corporation, a family farm trust, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, an authorized farm partnership, a family farm limited liability company, or an authorized farm limited liability company. Notwithstanding the five-year divestiture requirement under this paragraph, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must dispose of the agricultural land within ten years of acquiring the title. Livestock acquired by a pension or investment fund, corporation, limited partnership, or limited liability company in the collection of debts, or by a procedure for the enforcement of lien or claim on the livestock whether created by security agreement or otherwise after August 1, 1994, must be sold or disposed of within one full production cycle for the type of livestock acquired or 18 months after the livestock is acquired, whichever is earlier.

(y) "Commissioner" means the commissioner of agriculture.

(z) "Nonprofit corporation" means a nonprofit corporation organized under state nonprofit corporation or trust law or qualified for tax-exempt status under federal tax law that: (1) uses the land for a specific nonfarming purpose ~~or~~; (2) leases the agricultural land to a family farm unit, a family farm corporation, an authorized farm corporation, an authorized livestock farm corporation, a family farm limited liability company, a family farm trust, an authorized farm limited liability company, a family farm partnership, or an authorized farm partnership; or (3) actively farms less than 160 acres that were acquired by the nonprofit corporation prior to January 1, 2010, or actively farms less than 40 acres that were acquired by the nonprofit corporation after January 1, 2010, and the nonprofit corporation uses all profits from the agricultural land for educational purposes.

(aa) "Current beneficiary" means a person who at any time during a year is entitled to, or at the discretion of any person may, receive a distribution from the income or principal of the trust. It does not include a distributee trust, other than a trust described in section 170(c) of the Internal Revenue Code, as amended, but does include the current beneficiaries of the distributee trust. It does not include a person in whose favor a power of appointment could be exercised until the holder of the power of appointment actually exercises the power of appointment in that person's favor. It does not include a person who is entitled to receive a distribution only after a specified time or upon the occurrence of a specified event until the time or occurrence of the event. For the purposes of this section, a distributee trust is a current beneficiary of a family farm trust.

(bb) "De minimis" means that any corporation, pension or investment fund, limited liability company, or limited partnership that directly or indirectly owns, acquires, or otherwise obtains any interest in 40 acres or less of agricultural land and annually receives less than \$150 per acre in gross revenue from rental or agricultural production.

Sec. 19. Minnesota Statutes 2008, section 514.965, subdivision 2, is amended to read:

Subd. 2. **Agricultural lien.** "Agricultural lien" means an agricultural lien as defined in section

336.9-102(a)(5) and includes a veterinarian's lien, breeder's lien, livestock production input lien, temporary livestock production input lien, and feeder's lien under this section and section 514.966.

Sec. 20. Minnesota Statutes 2008, section 514.966, is amended by adding a subdivision to read:

Subd. 3a. Temporary livestock production input lien; debtor in mediation. (a) A supplier furnishing livestock production inputs in the ordinary course of business to a debtor who has filed a mediation request under chapter 583 has a temporary livestock production input lien for the unpaid retail cost of the livestock production input. A temporary perfected livestock production input lien that attaches to livestock may not exceed the amount, if any, that the sales price of the livestock for which the inputs were received exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisition price of the livestock. A temporary livestock production input lien becomes effective when the agricultural production inputs are furnished by the supplier to the purchaser.

(b) A temporary livestock production input lien under this subdivision applies to livestock production inputs provided that meet the needs of the debtor's livestock during the 45 days following a mediation request under chapter 583.

(c) A person who supplies livestock production inputs under this subdivision shall provide a lien-notification statement as required under subdivision 3, paragraphs (b) and (c), but is not subject to subdivision 3, paragraphs (d) to (f). A perfected temporary livestock production input lien corresponding to the lien-notification statement has priority over any security interest of the lender in the same livestock or their proceeds for the lesser of:

(1) the amount stated in the lien-notification statement; or

(2) the unpaid retail cost of the livestock production input identified in the lien-notification statement, subject to any limitation in paragraph (a).

Sec. 21. Minnesota Statutes 2008, section 514.966, subdivision 6, is amended to read:

Subd. 6. Perfection. (a) An agricultural lien under this section is perfected if a financing statement is filed pursuant to sections 336.9-501 to 336.9-530 and within the time periods set forth in paragraphs (b) to (e).

(b) A veterinarian's lien must be perfected on or before 180 days after the last item of the veterinary service is performed.

(c) A breeder's lien must be perfected by six months after the last date that breeding services are provided the obligor.

(d) Except as provided in paragraph (f), a livestock production input lien must be perfected by six months after the last date that livestock production inputs are furnished the obligor.

(e) A feeder's lien must be perfected on or before 60 days after the last date that feeding services are furnished the obligor.

(f) A temporary livestock production input lien, under subdivision 3a, must be perfected on or before 60 days after the last date that livestock production inputs are furnished the obligor.

Sec. 22. Laws 2008, chapter 296, article 1, section 25, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective June 1, ~~2010~~ 2011.

Sec. 23. FERTILIZER RESEARCH GRANTS; EXTENSION OF APPROPRIATION AVAILABILITY.

Notwithstanding Minnesota Statutes, section 16A.28:

(1) the appropriation encumbered on or before June 30, 2009, for fertilizer research grants in Laws 2007, chapter 45, article 1, section 3, subdivision 5, is available until June 30, 2011;

(2) the fiscal year 2010 appropriation encumbered on or before June 30, 2011, for fertilizer research grants in Laws 2009, chapter 94, article 1, section 3, subdivision 5, is available until June 30, 2013; and

(3) the fiscal year 2011 appropriation encumbered on or before June 30, 2012, for fertilizer research grants in Laws 2009, chapter 94, article 1, section 3, subdivision 5, is available until June 30, 2014.

Sec. 24. DAIRY RESEARCH AND EDUCATION FACILITY.

The commissioner shall work with milk producers and other industry stakeholders along with representatives of the University of Minnesota and Minnesota State Colleges and Universities whose work relates to the dairy industry, to consider the elements of a dairy research and education facility that would represent a partnership between higher education institutions and the dairy industry. The commissioner shall provide a report on facility and financing options to the house of representatives and senate agriculture budget chairs and ranking minority members by February 1, 2011.

Sec. 25. TERMINAL CAPACITY STUDY; APPROPRIATION.

\$50,000 in fiscal year 2011 is appropriated from the fertilizer inspection account in the agricultural fund to the commissioner of agriculture to determine, with assistance from the Office of Energy Security, the total propane and anhydrous ammonia terminal capacity located in the state and within 100 miles of the state's borders. The commissioner shall also use projected grain yields and other relevant factors to estimate total agricultural demand for propane and anhydrous ammonia in this state in the year 2020 and shall develop a detailed plan for fully and economically satisfying this anticipated demand. No later than February 1, 2011, the commissioner shall present the report to the legislative committees with jurisdiction over agricultural finance.

Sec. 26. REPEALER.

Minnesota Statutes 2008, sections 17.231; and 343.26, are repealed.

ARTICLE 2

VETERANS

Section 1. Minnesota Statutes 2008, section 197.60, subdivision 1, is amended to read:

Subdivision 1. **Appointment; administrative support.** The county board of any county ~~except Clay County~~, or the county boards of any two or more counties acting pursuant to the provisions of section 197.602, shall appoint a veterans service officer ~~and shall provide necessary clerical help, office space, equipment, and supplies for the officer, together with reimbursement for mileage~~

~~and other traveling expenses necessarily incurred in the performance of duties; and may appoint one or more assistant veterans service officers who shall have the qualifications prescribed in are qualified under section 197.601. The county board of Clay County may appoint a veterans service officer and assistant veterans service officers as provided in this subdivision. The county board or boards shall provide necessary clerical help, office space, equipment, and supplies for the officer, and reimbursement for mileage and other traveling expenses necessarily incurred in the performance of duties. Subject to the direction and control of the veterans service officer, the assistant veterans service officer may exercise all the powers, and shall perform the duties, of the veterans service officer, and shall be is subject to all the provisions of sections 197.60 to 197.606 relating to a veterans service officer. Every county officer and agency shall cooperate with the veterans service officer and shall provide the officer with information necessary in connection with the performance of duties.~~

Sec. 2. Minnesota Statutes 2008, section 197.601, is amended to read:

197.601 QUALIFICATIONS OF VETERANS SERVICE OFFICERS.

No person shall be appointed a veterans service officer or an assistant county veterans service officer or the equivalent under sections 197.60 to 197.606 without the following qualifications unless the person is:

- ~~(1) residence in a resident of the state of Minnesota;~~
- ~~(2) citizenship in a citizen of the United States; and~~
- ~~(3) a veteran, as defined in section 197.447;~~
- ~~(4) education and training for the duties of veterans service officer;~~
- ~~(5) knowledge of the law and the regulations and rulings of the United States Veterans Administration applicable to cases before it and the administration thereof.~~

In addition, a person accepting appointment to the position of county veterans service officer or assistant county veterans service officer or other equivalent assistant position must agree to receive, within six months of the appointment, training and education for the duties of the position, including development of an effective working knowledge of relevant laws, rules, and regulations pertaining to the United States Department of Veterans Affairs, as applicable to veterans cases before the department and the administration of those cases.

Sec. 3. Minnesota Statutes 2008, section 197.605, is amended to read:

197.605 SUPERVISION DEPARTMENT AS A RESOURCE TO COUNTIES.

Subdivision 1. ~~Methods of operation~~ Resources available. Every veterans service officer appointed under sections 197.60 to 197.606 shall be under the general supervision of the commissioner of veterans affairs as to methods of operation. The commissioner of veterans affairs shall make resources available within the Department of Veterans Affairs to every county that operates a county veterans service office, to assist the county with maintaining efficient and effective services to veterans. To receive available resources from the department, a county must formally request them from the commissioner and invite the commissioner or the commissioner's designee or designees into the county as necessary to provide those resources. The commissioner shall consult with the Association of Minnesota Counties and the Minnesota Association of County

Veterans Service Officers in developing a list of resources available to counties in support of their county veterans service offices.

Subd. 2. **Use of agencies to present claims.** Every veterans service officer and assistant veterans service officer or the equivalent appointed under sections 197.60 to 197.606 shall use the Minnesota Department of Veterans Affairs or any organization recognized by the United States Department of Veterans Administration Affairs, as may be designated by the veteran by power of attorney, in the presentation of claims to the United States Department of Veterans Administration Affairs for the benefits referred to in section 197.603.

~~Subd. 3. **Rules.** The commissioner of veterans affairs shall have authority to prescribe such rules as are necessary for compliance with this section and the efficient uniform administration of sections 197.60 to 197.606. Such rules shall not apply to the appointment, tenure, compensation, or working conditions of a veterans service officer appointed under sections 197.60 to 197.606.~~

Subd. 4. **Certification.** The commissioner of veterans affairs shall establish a certification process for veterans service officers. In doing so, the commissioner shall consult with the Minnesota Association of County Veterans Service Officers.

Sec. 4. Minnesota Statutes 2008, section 197.606, is amended to read:

197.606 CLASSED AS COUNTY EMPLOYEES.

Veterans service officers and assistant veterans service officers appointed under sections 197.60 to 197.606 are employees of the counties by which they are employed, and are under the exclusive jurisdiction and control of such those counties and the Department of Veterans Affairs as herein provided.

Sec. 5. Minnesota Statutes 2008, section 197.609, subdivision 1, is amended to read:

Subdivision 1. **Establishment and administration.** An education program for county veterans service officers is established to be administered by the commissioner of veterans affairs, with assistance and advice from the Minnesota Association of County Veterans Service Officers.

Sec. 6. Minnesota Statutes 2008, section 197.609, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** To be eligible for the program in this section, a person must currently be employed as a county veterans service officer or assistant county veterans service officer, as authorized by sections 197.60 to 197.606, and be certified to serve in that position by the commissioner of veterans affairs or be serving a probationary period as authorized by section 197.60, subdivision 2.

Sec. 7. Minnesota Statutes 2008, section 197.75, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of veterans affairs.

(c) "Deceased veteran" means a veteran ~~who was a Minnesota resident within six months of the time of the person's entry into the United States armed forces and who has died as a result of that the person's military service, as determined by the United States Veterans Administration, and who was a resident of this state:~~ (1) within six months of entering the United States armed forces, or (2)

for the six months preceding the veteran's date of death.

(d) "Eligible child" means a person who:

(1) is the natural or adopted ~~son or daughter~~ child or stepchild of a deceased veteran; and

(2) is a student making satisfactory academic progress at an eligible institution of higher education.

(e) "Eligible institution" means a postsecondary educational institution located in this state that either (1) is operated by this state, or (2) is operated publicly or privately and, as determined by the office, maintains academic standards substantially equivalent to those of comparable institutions operated in this state.

(f) "Eligible spouse" means the surviving spouse of a deceased veteran.

(g) "Eligible veteran" means a veteran who:

(1) is a student making satisfactory academic progress at an eligible institution of higher education;

(2) had Minnesota as the person's state of residence at the time of the person's enlistment or any reenlistment into the United States armed forces, as shown by the person's federal form DD-214 or other official documentation to the satisfaction of the commissioner;

(3) except for benefits under this section, has no remaining military or veteran-related educational assistance benefits for which the person may have been entitled; and

(4) while using the educational assistance authorized in this section, remains a resident student as defined in section 136A.101, subdivision 8.

(h) "Satisfactory academic progress" has the meaning given in section 136A.101, subdivision 10.

(i) "Student" has the meaning given in section 136A.101, subdivision 7.

(j) "Veteran" has the meaning given in section 197.447.

EFFECTIVE DATE. This section is effective July 1, 2010, for educational benefits provided to an eligible child or eligible spouse on or after that date.

Sec. 8. NONCOMPLIANCE.

A county that on July 1, 2010, is noncompliant with regard to the qualifications of an assistant county veterans service officer or the equivalent, under Minnesota Statutes, section 197.601, must comply with the requirements of that section no later than June 30, 2013, and must remain in compliance after that date.

Sec. 9. REPEALER.

(a) Minnesota Statutes 2008, section 168.1251, is repealed.

(b) Laws 2009, chapter 94, article 3, section 23, is repealed.

EFFECTIVE DATE. Paragraph (b) is effective the day following final enactment.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 6 and 8 are effective July 1, 2010."

Delete the title and insert:

"A bill for an act relating to state government; changing certain pesticide control provisions; authorizing waiver of a fee; providing for control of bovine tuberculosis; eliminating the native grasses and wildflower seed production and incentive program; authorizing ownership of agricultural land by certain nonprofit corporations; requiring tree care and tree trimming company registration; regulating certain sale and distribution of firewood; authorizing individuals and entities to take certain easements in agricultural land; allowing a temporary lien for livestock production inputs for 45 days following a mediation request requiring reports; clarifying the role of the commissioner and Department of Veterans Affairs in providing certain resources for the county veterans service offices; modifying a residency requirement for purposes of eligibility for higher educational benefits for the surviving spouse and children of a deceased veteran who dies as a result of military service; repealing authorization for a license plate; repealing a requirement that the Department of Veterans Affairs report on the status of a construction project priority listing; amending Minnesota Statutes 2008, sections 3.737, subdivision 4; 17.03, by adding a subdivision; 18B.31, subdivision 5; 18B.36, subdivision 1; 18B.37, subdivision 4; 18G.07; 28A.082, subdivision 1; 35.244, subdivisions 1, 2; 197.60, subdivision 1; 197.601; 197.605; 197.606; 197.609, subdivisions 1, 2; 197.75, subdivision 1; 239.092; 239.093; 500.221, subdivisions 2, 4; 500.24, subdivision 2; 514.965, subdivision 2; 514.966, subdivision 6, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 3.737, subdivision 1; 18B.316, subdivision 10; Laws 2008, chapter 296, article 1, section 25; proposing coding for new law in Minnesota Statutes, chapters 17; 38; repealing Minnesota Statutes 2008, sections 17.231; 168.1251; 343.26; Laws 2009, chapter 94, article 3, section 23."

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. 70: A bill for an act relating to judicial selection; proposing an amendment to the Minnesota Constitution, article VI, sections 7 and 8; establishing retention elections for judges; creating a judicial performance commission; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 7, 10, 15; 13.90, subdivision 2; 204B.06, subdivision 6; 204B.34, subdivision 3; 204B.36, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 204D; 480B; repealing Minnesota Statutes 2008, sections 204B.36, subdivision 5; 204D.14, subdivision 3.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

CONSTITUTIONAL AMENDMENT

Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, article VI, section 7, will read:

Sec. 7. ~~The term of office of all judges shall be six years and until their successors are qualified.~~ They Following appointment by the governor, each judge shall initially hold office for a term ending the first Monday in January following the next regularly scheduled general election held more than three years after the appointment. Thereafter, the judge's term of office shall be eight years and until a successor is appointed and qualified. Judges' retention shall be ~~elected~~ determined by the voters from the area which they ~~are to serve,~~ in the manner provided by law. An independent judicial performance commission shall evaluate in a nonpartisan manner the performance of judges according to criteria that the commission develops and publishes, and any other criteria established by law.

article VI, section 8, will read:

Sec. 8. Whenever there is a vacancy in the office of judge, the governor shall appoint in the manner provided by law a qualified person to fill the vacancy ~~until a successor is elected and qualified. The successor shall be elected for a six-year term at the next general election occurring more than one year after the appointment.~~

Sec. 2. **SUBMISSION TO VOTERS.**

The proposed amendment must be submitted to the people at the 2010 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to reaffirm the impartiality of the judiciary by providing that all judges be appointed by the governor, with their continuation in office determined at a retention election after a public, nonpartisan evaluation of their performance by a judicial performance commission rather than be determined under the current system of contested elections?"

Yes

No"

Sec. 3. **TRANSITION.**

A judge currently seated or elected at the time the constitutional amendment provided in section 1 is adopted shall complete the remainder of the judge's term as it existed before adoption of the amendment. A judge who is elected at the 2010 general election will serve a term of six years. Following completion of their terms, these judges are subject to the retention election process as provided in the constitution and may file for retention following the procedures described in article 2.

ARTICLE 2

STATUTORY PROVISIONS

Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 7, is amended to read:

Subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities, other than lobbying activities, related to qualifying the question for placement

on the ballot. A ballot question does not include a judicial retention election.

Sec. 2. Minnesota Statutes 2008, section 10A.01, subdivision 10, is amended to read:

Subd. 10. **Candidate.** "Candidate" means an individual who seeks nomination or election as a state constitutional officer, or legislator, or judge retention in a judicial office. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

Sec. 3. Minnesota Statutes 2008, section 10A.01, subdivision 15, is amended to read:

Subd. 15. **Election.** "Election" means a primary, special primary, general, ~~or special,~~ or retention election.

Sec. 4. Minnesota Statutes 2008, section 10A.14, subdivision 1, is amended to read:

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization ~~no later than~~ within the earliest of:

(1) 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100, ~~or by;~~

(2) 72 hours after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100, if the contribution or expenditure was made to advocate the retention or defeat of a candidate for judicial office; or

(3) the end of the next business day after it has received a loan or contribution that must be reported under section 10A.20, subdivision 5, whichever is earlier.

Sec. 5. Minnesota Statutes 2008, section 10A.20, subdivision 2, is amended to read:

Subd. 2. **Time for filing.** (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) ~~and (e)~~ to (d).

(b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.

(c) In each general election year, a political committee, political fund, or party unit must file reports 15 days before a primary and ten days before a general election.

(d) In each general election year in which a political committee, political fund, or party unit makes expenditures that, in the aggregate, exceed \$100 to advocate the retention or defeat of a candidate for judicial office, reports must be filed 90 days, 60 days, and 30 days before the retention election.

Sec. 6. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 6c. **Independent expenditures; judicial retention.** (a) An individual, corporation, association, political committee, political party unit, or political fund must file a report with the board each time the individual, corporation, association, political committee, political party unit, or political fund makes or contracts to make, at any time up to and including the 20th day before an election, independent expenditures in an aggregate amount in excess of \$1,000 to advocate the retention or defeat of a candidate for judicial office. The report must be filed within 48 hours after initially making or contracting to make the expenditures. An additional report must be filed within 48 hours after each time an independent expenditure in an aggregate amount in excess of \$1,000 is made or contracted to be made, up to and including the 20th day before a retention election. The report must include the information required to be reported under subdivision 3, paragraph (g), except that if the expenditure is reported at the time it is contracted, the report must include the contract amount.

(b) An individual, political committee, political party unit, or political fund must file a report with the board each time the individual, political committee, political party unit, or political fund makes or contracts to make, between the 19th day and the last day before an election, an independent expenditure in an aggregate amount in excess of \$100 to advocate the retention or defeat of a candidate for judicial office. The report must be filed within 24 hours after initially making or contracting to make the expenditures. An additional report must be filed within 24 hours after making or contracting to make an independent expenditure in an aggregate amount in excess of \$100 at any time up to and including the 20th day before a retention election. The report must include the information required to be reported under subdivision 3, paragraph (g), except that if the expenditure is reported at the time it is contracted, the report must include the contract amount.

(c) An individual, corporation, association, political committee, political party unit, or political fund that must file a report under this subdivision must also provide a copy of the report to the candidate, by certified mail, sent within the time period required for filing that same report with the board as provided in paragraphs (a) and (b).

Sec. 7. [13.95] INDEPENDENT JUDICIAL PERFORMANCE COMMISSION.

Data of the Independent Judicial Performance Commission is classified and governed as provided in section 480B.02.

Sec. 8. Minnesota Statutes 2008, section 204B.06, subdivision 6, is amended to read:

Subd. 6. **Judicial retention candidates; designation of term office.** ~~An individual~~ A justice or judge who files as a retention candidate for the office of chief justice or associate justice of the Supreme Court, judge of the Court of Appeals, or judge of the district court shall state in the affidavit of candidacy the office of the particular justice or judge for which the individual is a retention candidate. The individual shall be a retention candidate only for the office identified in the affidavit. Each justice of the Supreme Court and each Court of Appeals and district court judge is deemed to hold a separate nonpartisan office.

Sec. 9. Minnesota Statutes 2008, section 204B.11, is amended by adding a subdivision to read:

Subd. 3. **Judicial performance evaluation fee.** At the time of filing an affidavit of candidacy, in addition to the filing fee prescribed by subdivision 1, a candidate for judge of the Supreme Court,

judge of the Court of Appeals, or judge of the district court shall pay to the filing officer a judicial performance evaluation fee of \$1,200. Fees received by the filing officer must immediately be paid to the commissioner of management and budget, who must deposit them in the state treasury and credit them to the judicial performance evaluation fee account established by section 480B.05, subdivision 2.

Sec. 10. Minnesota Statutes 2008, section 204B.34, subdivision 3, is amended to read:

Subd. 3. **Judicial elections.** When one or more justices of the Supreme Court or judges of the Court of Appeals or of a district court ~~are to be nominated at the same primary or elected at the same general election~~ have filed for retention election, the notice of election shall state the name of each justice or judge ~~whose successor is to be nominated or elected~~ seeking retention.

Sec. 11. Minnesota Statutes 2008, section 204B.36, subdivision 4, is amended to read:

Subd. 4. **Judicial retention candidates.** ~~The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote.~~ (a) The official ballot shall contain the names of all justices or judges seeking to retain their office. 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 shall be printed on the official ~~primary and~~ general election ballot as follows:

~~(a)~~ (1) in the case of the Supreme Court:

"Chief justice";

"Associate justice (number)";

~~(b)~~ (2) in the case of the Court of Appeals:

"Judge (number)"; or

~~(c)~~ (3) in the case of the district court:

"Judge (number)."

(b) A judicial retention election shall be placed on the ballot as a question, as provided in subdivision 3. The question shall appear in substantially the following form: "Shall (name of judge) of the (district court, Court of Appeals, or Supreme Court) be retained in office?"

Sec. 12. [204D.30] RETENTION OF JUDGES.

(a) Within the time period established by section 204B.09, a judge seeking to retain judicial office shall file an affidavit of candidacy with the secretary of state. Judges who have filed an affidavit of candidacy as provided in this section must be placed on the appropriate official ballot at the next regular general election under a nonpartisan designation in the form provided in section 204B.36, subdivision 4.

(b) If a majority of those voting on the question votes "No," then upon the expiration of the term for which the judge was serving, a vacancy exists, which must be filled as provided by law. If a majority of those voting on the question votes "Yes," the judge shall remain in office for an

eight-year term, subject to removal as provided by the Minnesota Constitution. A judge who loses a retention election is ineligible to be appointed to fill the resulting vacancy.

(c) A judge seeking to retain judicial office is considered a candidate for election to that office. A judicial retention election is not a ballot question for the purposes of the Minnesota Election law.

Sec. 13. [480B.02] INDEPENDENT JUDICIAL PERFORMANCE COMMISSION.

Subdivision 1. **Establishment.** An Independent Judicial Performance Evaluation Commission is established and shall be an independent body not subject to the direct control of any branch of government.

Subd. 2. **Purpose of commission.** After public hearings, the commission shall adopt and administer for all judges a process for evaluating judicial performance. The performance review process must be designed to assist voters in evaluating the performance of judges standing for retention, facilitate self-improvement of all judges, and promote public accountability of the judiciary.

Subd. 3. **Composition; appointment of commission members.** (a) The commission is composed of 24 members. All members of the commission must be residents of Minnesota at the time of their appointment and for the duration of their term. Sitting judges and public officials, as defined in section 10A.01, subdivision 35, may not be appointed or serve on the commission. Members of the commission who are attorneys at the time of their appointment must have been admitted to practice before the Minnesota Supreme Court for not less than five years. Members of the commission are eligible for reappointment up to two additional full terms.

(b) Members of the commission must be appointed and serve as follows:

(1) the governor shall appoint a total of eight members, no more than four of whom may be attorneys at the time of their appointment. Gubernatorial appointees serve on the commission until the governor who made the appointment leaves office or for a term of four years, whichever comes first;

(2) the Supreme Court shall appoint a total of eight members. The court shall designate one of the appointees to serve as chair of the commission. No more than four of the appointees may be attorneys at the time of their appointment. The Supreme Court's appointees serve on the commission for a four-year term; and

(3) the legislature shall appoint a total of eight members, no more than four of whom may be attorneys at the time of their appointment. Legislative appointments must be made sequentially as follows: the speaker of the house shall appoint one member, the majority leader of the senate shall appoint one member, the minority leader of the house of representatives shall appoint one member, and the minority leader of the senate shall appoint one member. After each legislative leader has made one appointment as provided in this clause, a second round of appointments must be made in the same sequence. Legislative appointees serve on the commission for a two-year term.

In the case of a vacancy on the commission, the authority who appointed the member whose seat has become vacant shall appoint a person to fill the vacancy for the remainder of the unexpired term.

(c) In making appointments, the governor, Supreme Court, and legislative leaders must

consider the diversity of the state's population, as well as the importance of balanced geographic representation, and appoint individuals of outstanding competence and reputation. The governor, Supreme Court, and legislative leaders should consult with one another to ensure the requirements of this paragraph are met.

(d) Members shall perform their duties in an impartial and objective manner and shall base their recommendations solely upon matters that are in the record developed by the commission. A member who violates this paragraph may be removed from the commission by majority vote of the commission's membership.

(e) A member may be removed by the appointing authority at any time for cause, after notice and hearing, or after missing three consecutive meetings. After a member misses two consecutive meetings and before the next meeting, the secretary of the commission shall notify the member in writing that the member may be removed if the member misses the next meeting. The chair of the commission shall inform the appointing authority if a member misses three consecutive meetings.

(f) Commission members shall serve without compensation but may be reimbursed for expenses associated with their work on the commission.

(g) The commission shall appoint an executive secretary to provide administrative assistance and coordinate the work of the commission.

Subd. 4. **Meetings and data.** Meetings of the Independent Judicial Performance Commission are subject to the requirements of chapter 13D, except that a meeting held to evaluate the performance of a judge may only be closed to discuss issues related to the judge's health or allegations against the judge that may be defamatory. The commission is subject to the requirements of chapter 13. Except as otherwise provided in this section, data of the commission are public data pursuant to section 13.03, subdivision 1.

Subd. 5. **Standards and procedures.** (a) The Independent Judicial Performance Commission shall develop written standards, subject to approval of the Supreme Court in their entirety, by which judicial performance is to be evaluated. The standards must be periodically updated and must include knowledge of the law, procedure, integrity, impartiality, temperament, respect for litigants, respect for the rule of law, administrative skill, punctuality, and communication skills. The commission may not evaluate judicial performance based on substantive legal issues or opinions subject to standard appellate processes.

(b) The commission shall adopt procedures for collecting information and conducting reviews and shall create and implement a program of periodic review of the performance of each judge. The commission must request public comment on these procedures before their adoption.

Subd. 6. **Surveys.** (a) Midway through a judge's term and again no fewer than nine months before the date of the election for retention of the judge's position, the commission must distribute anonymous survey forms eliciting performance evaluations of the judge to a representative sampling of attorneys, litigants, other judges, and other persons who have been in direct contact with the judge being evaluated and who have direct knowledge of the judge's judicial performance during the evaluation period.

(b) The commission must employ or contract with qualified individuals to prepare survey forms, process responses, and compile the statistical reports of the survey results in a manner that ensures

confidentiality and accuracy.

(c) Each survey conducted must seek evaluations in accordance with the written performance standards adopted as provided in paragraph (a) and must solicit narrative comments regarding the judge's performance. Narrative comments contained in a survey response are private data on the judge, as defined in section 13.02, subdivision 12. Other data on an individual who completes or responds to a survey form are private data on that individual.

Subd. 7. **Midterm evaluation.** The commission shall evaluate each judge halfway through the judge's term, as nearly as practicable, to provide feedback to the judge about the judge's performance and to give the judge an opportunity for improvement. The commission shall adopt procedures for conducting the midterm evaluation.

Subd. 8. **Retention-year evaluation.** (a) In each year in which a judge has the opportunity to file as a candidate for retention, the Independent Judicial Performance Commission must conduct a final evaluation of the judge and determine whether the judge meets or does not meet judicial performance standards. Upon completion of the evaluation, the commission must rate the judge "well-qualified," "qualified," or "unqualified" for office. A rating of "unqualified" does not prohibit a judge from seeking retention by the voters.

(b) The final evaluation of a judge must include a public hearing and an opportunity for submission of written public comments on the performance of a judge standing for retention. Before accepting public comment and conducting a hearing, the commission must notify each judge to be evaluated of the process for conducting the evaluation and the right of the judge to submit written comments and appear in person at the hearing. The hearing and evaluation may be conducted by a panel of commission members, as provided in subdivision 9.

(c) A judge who does not intend to seek retention may waive the final evaluation process by providing written notice to the commission affirming the judge's intention to not file as a retention candidate for the judge's current office. If a judge waives the final evaluation under this paragraph, the judge is not eligible to file an affidavit of candidacy for the office and is not eligible to be appointed to fill the resulting vacancy.

Subd. 9. **Evaluation panels; review by full commission.** (a) The evaluation of a judge may be conducted by an evaluation panel. An evaluation panel is composed of five members, including at least one member appointed by each branch of government, but otherwise chosen randomly. A panel must report its results to the full commission. The full commission shall review a panel's evaluation if the panel rates a judge unqualified, or if one panelist or three members of the commission request a review within 15 days after the panel makes its report. The commission may overturn a panel's rating. If a panel's report and rating is not reviewed, the determination of the panel is final. Decisions of an evaluation panel or the full commission regarding a judge's performance are not subject to judicial review.

(b) If an evaluation is reviewed by the full commission, the commission shall provide written notice to the affected judge. The judge has the right to submit written comments to the commission and to appear and be heard by the commission before a final vote of the commission members regarding the judge's performance.

Subd. 10. **Publication of evaluation results.** Following the final evaluation of a judge, the commission shall compile a factual report on the judicial performance of each judge intending to

stand for retention, including the final rating assigned to the judge's performance. The report must be made available to the public at least one month before the time period established in section 204B.09 for filing an affidavit of candidacy with the secretary of state.

Sec. 14. [480B.03] JUDICIAL RETENTION ELECTIONS.

Judicial retention elections must be conducted consistent with the procedures established by law for the administration of state general elections. Judges standing for retention must be placed on the ballot as provided in section 204D.30.

Sec. 15. [480B.04] REQUIREMENTS FOR SERVICE ON COMMISSIONS.

Subdivision 1. **Service on multiple commissions prohibited.** A person may not simultaneously serve on more than one commission established under this chapter.

Subd. 2. **Service until appointment of successors.** Members of commissions established under this chapter continue to serve until their successors have been appointed and qualified.

Sec. 16. [480B.05] JUDICIAL PERFORMANCE EVALUATION; FEE.

Subdivision 1. **Authorization.** The Supreme Court, through the Lawyer Registration Office, may assess a judicial performance evaluation fee on each licensed attorney in the state. If imposed, the fee must not exceed \$15 and may only apply to attorneys actively engaged in the practice of law.

Subd. 2. **Creation of account.** The Judicial Performance Evaluation Fee Account is created in the special revenue fund. The state court administrator shall forward fees collected under subdivision 1 to the commissioner of management and budget who shall deposit them in the state treasury and credit them to the account. The judicial performance evaluation fee collected under section 204B.11, subdivision 3, must also be credited to the account. Money in the account is appropriated to the Independent Judicial Performance Commission.

Sec. 17. INDEPENDENT JUDICIAL PERFORMANCE COMMISSION; FIRST MEETING; TRANSITION.

(a) Initial appointments must be made to the Independent Judicial Performance Commission on July 1, 2011.

(b) Initial appointees shall serve for a term ending January 15, 2013, and may be considered for reappointment as provided in this article at that time. The chair of the commission must convene the first full meeting of the commission no later than August 1, 2011, and appoint a secretary for the commission at that first meeting.

(c) The commission is only required to conduct a final retention-year evaluation of each judge whose term expires on or before January 5, 2015, but may conduct an initial evaluation of these judges to provide an opportunity for improvement if the commission determines that it is prepared and equipped to do so. Judges whose terms expire after January 5, 2015, are subject to both the midterm and final retention-year evaluations required by this article.

Sec. 18. REPEALER.

Minnesota Statutes 2008, sections 204B.36, subdivision 5; and 204D.14, subdivision 3, are repealed.

Sec. 19. **EFFECTIVE DATE.**

This article is effective July 1, 2011, if the constitutional amendment in article 1 is adopted. However, if the constitutional amendment is adopted, the governor and Supreme Court may immediately undertake any procedure necessary to consider and select potential appointees."

Amend the title as follows:

Page 1, line 4, after the second semicolon, insert "appropriating money;"

Amend the title numbers accordingly

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 re-referred

S.F. No. 2830: A bill for an act relating to natural resources; repealing certain definitions related to natural resources; repealing a legislative guide requirement; repealing Minnesota Statutes 2008, section 84.02, subdivisions 1, 2, 3, 4, 5, 6, 7, 8; Minnesota Statutes 2009 Supplement, sections 3.3006; 84.02, subdivisions 4a, 6a, 6b; Laws 2009, chapter 172, article 5, section 8.

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. 3151 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.
3151	2903				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3151 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3151, the second engrossment; and insert the language after the enacting clause of S.F. No. 2903, the first engrossment; further, delete the title of H.F. No. 3151, the second engrossment; and insert the title of S.F. No. 2903, the first engrossment.

And when so amended H.F. No. 3151 will be identical to S.F. No. 2903, and further recommends that H.F. No. 3151 be given its second reading and substituted for S.F. No. 2903, 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. 3157 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.
3157	3087				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3157 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3157, the first engrossment; and insert the language after the enacting clause of S.F. No. 3087, the first engrossment; further, delete the title of H.F. No. 3157, the first engrossment; and insert the title of S.F. No. 3087, the first engrossment.

And when so amended H.F. No. 3157 will be identical to S.F. No. 3087, and further recommends that H.F. No. 3157 be given its second reading and substituted for S.F. No. 3087, 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 Prettner Solon from the Committee on Energy, Utilities, Technology and Communication, to which was referred the following appointment:

PUBLIC UTILITIES COMMISSION
Betsy L. Wergin

Reports the same back with the recommendation that the appointment 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. 2737 and 2830 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 3151 and 3157 were read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senator Koch introduced—

S.F. No. 3345: A bill for an act relating to taxation; sales and use; making changes to Clearwater sales tax; amending Laws 2008, chapter 366, article 7, section 19, subdivision 3.

Referred to the Committee on Taxes.

Senators Murphy and Dibble introduced—

S.F. No. 3346: A bill for an act relating to metropolitan government; authorizing the Metropolitan Council to acquire certain property interests of the University of Minnesota by condemnation proceedings; amending Minnesota Statutes 2008, section 473.405, subdivisions 3, 9.

Referred to the Committee on Transportation.

Senators Lynch and Senjem introduced—

S.F. No. 3347: A bill for an act relating to taxation; amending Rochester's lodging and food and beverage taxes; amending Laws 2002, chapter 377, article 3, section 25, as amended; Laws 2009, chapter 88, article 4, section 23, subdivision 4.

Referred to the Committee on Taxes.

Senator Dibble introduced—

S.F. No. 3348: A bill for an act relating to taxation; property; modifying homestead treatment of manufactured home park cooperatives; amending Minnesota Statutes 2009 Supplement, sections 273.124, subdivision 3a; 273.13, subdivision 25.

Referred to the Committee on Taxes.

MOTIONS AND RESOLUTIONS

Senator Olseen moved that the name of Senator Rummel be added as a co-author to S.F. No. 2185. The motion prevailed.

Senator Erickson Ropes moved that the name of Senator Clark be added as a co-author to S.F. No. 2429. The motion prevailed.

Senator Bonoff moved that the name of Senator Latz be added as a co-author to S.F. No. 2805. The motion prevailed.

Senator Erickson Ropes moved that the name of Senator Torres Ray be added as a co-author to S.F. No. 3265. The motion prevailed.

Senator Fobbe moved that her name be stricken as a co-author to S.F. No. 1761. The motion prevailed.

Senators Latz, Rest, Bonoff and Michel introduced –

Senate Resolution No. 170: A Senate resolution congratulating the Benilde-St. Margaret's High School girls basketball team on winning the 2010 State High School Class AAA girls basketball championship.

Referred to the Committee on Rules and Administration.

MEMBERS EXCUSED

Senators Carlson, Chaudhary, Dibble, Doll, Gimse, Higgins, Latz, Limmer, Lourey, Michel, Moua, Olseen, Ortman, Rest, Scheid, Sieben and Vandever were excused from the Session of today.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Monday, April 12, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

