

## STATE OF MINNESOTA

## EIGHTY-SIXTH SESSION — 2009

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 THIRTY-FOURTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 16, 2009

The House of Representatives convened at 9:30 a.m. and was called to order by Al Juhnke, Speaker pro tempore.

Prayer was offered by the Reverend Jeff Cowmeadow, Calvary Baptist Church, Minneapolis, Minnesota.

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

The roll was called and the following members were present:

Abeler	Demmer	Haws	Laine	Murphy, M.	Seifert
Anderson, B.	Dettmer	Hayden	Lanning	Nelson	Sertich
Anderson, P.	Dill	Hilstrom	Lenczewski	Newton	Severson
Anderson, S.	Dittrich	Hilty	Lesch	Nornes	Shimanski
Anzalc	Doepke	Holberg	Liebling	Norton	Simon
Atkins	Doty	Hoppe	Lieder	Obermueller	Slawik
Beard	Downey	Hornstein	Lillie	Olin	Slocum
Benson	Drazkowski	Hortman	Loeffler	Otremba	Smith
Bigham	Eken	Hosch	Loon	Paymar	Solberg
Bly	Emmer	Howes	Mack	Pelowski	Sterner
Brod	Falk	Huntley	Magnus	Peppin	Swails
Brown	Faust	Jackson	Mahoney	Persell	Thao
Brynaert	Fritz	Johnson	Mariani	Peterson	Thissen
Buesgens	Gardner	Juhnke	Marquart	Poppe	Tillberry
Bunn	Garofalo	Kahn	Masin	Reinert	Torkelson
Carlson	Gottwalt	Kalin	McFarlane	Rosenthal	Urdahl
Champion	Greiling	Kath	McNamara	Rukavina	Wagenius
Clark	Gunther	Kelly	Morgan	Ruud	Ward
Cornish	Hackbarth	Kiffmeyer	Morrow	Sailer	Welti
Davids	Hamilton	Knuth	Mullery	Sanders	Winkler
Davnie	Hansen	Koenen	Murdock	Scalze	Zellers
Dean	Hausman	Kohls	Murphy, E.	Scott	Spk. Kelliher

A quorum was present.

Eastlund and Westrom were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Ruud moved that further reading of the Journal be dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

## REPORTS OF CHIEF CLERK

S. F. No. 462 and H. F. No. 525, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Mullery moved that the rules be so far suspended that S. F. No. 462 be substituted for H. F. No. 525 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 489 and H. F. No. 528, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Davnie moved that the rules be so far suspended that S. F. No. 489 be substituted for H. F. No. 528 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1486 and H. F. No. 1648, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Sailer moved that S. F. No. 1486 be substituted for H. F. No. 1648 and that the House File be indefinitely postponed. The motion prevailed.

**REPORTS OF STANDING COMMITTEES AND DIVISIONS**

Solberg from the Committee on Ways and Means to which was referred:

H. F. No. 925, A bill for an act relating to employment; expanding the official measure of unemployment; requiring a report; amending Minnesota Statutes 2008, section 116J.401, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Page 3, line 25, delete everything after the period

Page 3, delete lines 26 and 27 and insert "The commissioner must report monthly to the chairs and ranking minority members of the committees of the senate and house of representatives having jurisdiction over workforce issues on the most recent monthly state unemployment rate under both the traditional measure, commonly referred to as the U-3 measure, and the measure required to be designed by this section."

Page 3, after line 33, insert:

"Sec. 3. **USE OF APPROPRIATION.**

Up to \$120,000 of the money available to the commissioner of employment and economic development from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for administration of the unemployment insurance program must be used to implement this section."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "directing use of certain appropriations;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1242, A bill for an act relating to public safety; establishing Brandon's Law; implementing procedures for investigating missing person cases; amending Minnesota Statutes 2008, sections 299C.51; 299C.52; 299C.53; 299C.54, subdivisions 1, 2, 3, 3a; 299C.55; 299C.56; 299C.565; 390.25, subdivision 2; 626.8454, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299C.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 299C.51, is amended to read:

**299C.51 CITATION.**

Sections 299C.51 to ~~299C.53~~ 299C.565 may be cited as the "Minnesota Missing ~~Children's~~ Persons' Act."

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 2. Minnesota Statutes 2008, section 299C.52, is amended to read:

**299C.52 MINNESOTA MISSING ~~CHILD~~ CHILDREN AND ENDANGERED PERSONS PROGRAM.**

Subdivision 1. **Definitions.** As used in sections 299C.52 to ~~299C.56~~ 299C.565, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent.

(b) "CJIS" means Minnesota criminal justice information system.

(c) "Missing" means the status of a ~~child~~ person after a law enforcement agency that has received a report of a missing ~~child~~ person has conducted a preliminary investigation and determined that the ~~child~~ person cannot be located.

(d) "NCIC" means National Crime Information Center.

(e) "Endangered" means that a law enforcement official has received sufficient evidence that the ~~child is with a missing person who presents a threat of immediate~~ is at risk of physical injury to the child or physical or sexual abuse of the child, or death. The following circumstances indicate that a missing person is at risk of physical injury or death:

(1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;

(2) the person is missing under known dangerous circumstances;

(3) the person is missing more than 30 days;

(4) the person is under the age of 21 and at least one other factor in this paragraph is applicable;

(5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;

(6) the person does not have a pattern of running away or disappearing;

(7) the person is mentally impaired;

(8) there is evidence that the person may have been abducted by a noncustodial parent;

(9) the person has been the subject of past threats or acts of violence;

(10) there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or

(11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

(f) "DNA" means deoxyribonucleic acid from a human biological specimen.

Subd. 2. **Establishment.** The commissioner of public safety shall maintain a Minnesota missing ~~child~~ children and endangered persons program within the department to enable documented information about missing Minnesota children and endangered persons to be entered into the NCIC computer.

Subd. 3. **Computer equipment and programs.** (a) The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children and endangered persons in the NCIC computer through the CJIS. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and Social Security number, name and driver's license number, vehicle license number, and vehicle identification number.

(b) The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children and endangered persons. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local law enforcement agency.

Subd. 4. **Authority to enter or retrieve information.** Only law enforcement agencies may enter missing ~~child~~ children and endangered persons information through the CJIS into the NCIC computer or retrieve information through the CJIS from the NCIC computer.

Subd. 5. **Statistical data.** The commissioner shall annually compile and make available statistical information on the number of missing children and endangered persons entered into the NCIC computer and, if available, information on the number located.

Subd. 6. **Rules.** The commissioner may adopt rules in conformance with sections 299C.52 to ~~299C.56~~ 299C.565 to provide for the orderly collection and entry of missing ~~child children and endangered persons~~ information and requests for retrieval of missing ~~child children and endangered persons~~ information.

Subd. 7. **Cooperation with other agencies.** The commissioner shall cooperate with other states and the NCIC in the exchange of information on missing persons.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 299C.53, is amended to read:

**299C.53 MISSING ~~CHILD~~ PERSONS REPORT; DUTIES OF COMMISSIONER AND LAW ENFORCEMENT AGENCIES.**

Subdivision 1. **Investigation and entry of information.** (a) A law enforcement agency shall accept without delay any report of a missing person. The law enforcement agency shall not refuse to accept a missing person report on the basis that:

- (1) the missing person is an adult;
- (2) the circumstances do not indicate foul play;
- (3) the person has been missing for a short amount of time;
- (4) the person has been missing for a long amount of time;
- (5) there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
- (6) the circumstances suggest that the disappearance may be voluntary;
- (7) the reporting person does not have personal knowledge of the facts;
- (8) the reporting person cannot provide all of the information requested by the law enforcement agency;
- (9) the reporting person lacks a familial or other relationship with the missing person; or
- (10) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the whereabouts and welfare of the person are known at the time the report is being made.

A law enforcement agency shall accept missing person reports in person. An agency may also accept reports by telephone or other electronic means to the extent such reporting is consistent with the agency's policies or practices.

(b) Upon receiving a report of a ~~child person~~ believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the ~~child person~~ is missing, and, if missing, whether the person is endangered. If the ~~child person~~ is initially determined to be missing and endangered, the agency shall immediately consult the Bureau of Criminal Apprehension during the preliminary investigation, in recognition of the fact that the first two hours are critical. If the ~~child person~~ is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the ~~child person~~ through the CJIS into the NCIC computer. Law enforcement agencies having direct access to the CJIS and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. **Location of missing child person.** Immediately As soon as is practically possible after a missing ~~child~~ person is located, the law enforcement agency which located or returned the missing ~~child~~ person shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

Subd. 3. **Missing and endangered children persons.** If the Bureau of Criminal Apprehension receives a report from a law enforcement agency indicating that a ~~child~~ person is missing and endangered, the superintendent may assist the law enforcement agency in conducting the preliminary investigation, offer resources, and assist the agency in helping implement the investigation policy with particular attention to the need for immediate action. The law enforcement agency shall promptly notify all appropriate law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

Subd. 4. **Federal requirements.** In addition to the provisions of sections 299C.51 to 299C.565, the law enforcement agency and the Bureau of Criminal Apprehension shall comply with requirements provided in federal law on reporting and investigating missing children cases. For purposes of this subdivision, the definition of "child," "children," or "minor" shall be determined in accordance with the applicable federal law.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 4. **[299C.535] REQUEST FOR ADDITIONAL INFORMATION ON A MISSING PERSON.**

(a) If the person identified in the missing person report remains missing for 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain:

(1) DNA samples from family members and, if possible, from the missing person, along with any needed documentation, including consent forms, required for the use of state or federal DNA databases;

(2) dental information and x-rays, and an authorization to release dental information or x-rays of the missing person;

(3) any additional photographs of the missing person that may aid the investigation or an identification; and

(4) fingerprints.

(b) The law enforcement agency shall immediately determine whether any additional information received on the missing person indicates that the person is endangered.

(c) Any additional information or materials received by the law enforcement agency shall be entered into the applicable state or federal database as soon as possible.

(d) Nothing in this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

(e) The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 299C.54, subdivision 1, is amended to read:

Subdivision 1. **Distribution.** The commissioner shall distribute a missing ~~children persons~~ bulletin ~~on a quarterly basis~~ to local law enforcement agencies, county attorneys, and, in the case of missing children, to public and nonpublic schools. The commissioner shall also make this information accessible to other parties involved in efforts to locate missing children and endangered persons and to other persons as the commissioner considers appropriate.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 299C.54, subdivision 2, is amended to read:

Subd. 2. **Photograph.** ~~The commissioner shall provide appropriate local law enforcement agencies with a list of missing children, with an appropriate waiver form to assist the agency in obtaining a photograph of each missing child.~~ Local agencies shall obtain the most recent photograph available for missing children and endangered persons and forward those photographs to the commissioner. The commissioner shall include these photographs, as they become available, in the ~~quarterly~~ bulletins.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 299C.54, subdivision 3, is amended to read:

Subd. 3. **Included with mailing.** State and local elected officials and agencies may enclose in their mailings information regarding missing children and endangered persons obtained from law enforcement agencies or from any organization that is recognized as a nonprofit, tax-exempt organization under state or federal law and has an ongoing missing children and endangered persons program. Elected officials and commissioners of state agencies are urged to develop policies to enclose missing children and endangered persons information in mailings when it will not increase postage costs and is otherwise considered appropriate.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 299C.54, subdivision 3a, is amended to read:

Subd. 3a. **Collection of data.** Identifying information on missing children and endangered persons entered into the NCIC computer regarding cases that are still active at the time the missing ~~children persons~~ bulletin is compiled ~~each quarter~~ may be included in the bulletin.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 299C.55, is amended to read:

**299C.55 TRAINING.**

The commissioner shall adopt standards for training appropriate personnel concerning the investigation of missing ~~children persons~~ cases.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 299C.56, is amended to read:

**299C.56 RELEASE OF MEDICAL DATA.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Health care facility" means the office of a dentist or physician, or another medical facility, that is in possession of identifying data.

(c) "Identifying data" means dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing or a person who has now been reported as missing and endangered.

Subd. 2. **Written declaration.** If a child is reported missing or a person is reported missing and endangered, a law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing child or endangered person is being conducted, and that the identifying data are necessary for the exclusive purpose of furthering the investigation. Notwithstanding chapter 13 or section 144.651, subdivision 16, when a written declaration executed under this subdivision, signed by a peace officer, is presented to a health care facility, the facility shall provide access to the missing child's or endangered person's identifying data to the law enforcement agency.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 299C.565, is amended to read:

**299C.565 MISSING PERSON REPORT.**

The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report. In the event any circumstances delay a determination of which law enforcement agency has the responsibility to take a missing person report from an interested party, the Bureau of Criminal Apprehension shall offer prompt guidance to the agencies involved.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 12. **[299C.5655] MISSING PERSONS; STANDARDIZED REPORTS AND PROCEDURES.**

By September 1, 2009, the superintendent of the Bureau of Criminal Apprehension shall develop:

(1) a standardized form for use by all law enforcement agencies when taking a missing person report; and

(2) a model policy that incorporates standard processes, procedures, and information to be provided to interested persons regarding developments in a missing person case.

In developing the standardized form and model policy, the superintendent of the Bureau of Criminal Apprehension shall convene a working group that includes interested parties and representatives of the Minnesota Chiefs of Police Association, Minnesota Sheriffs' Association, Minnesota Police and Peace Officers Association, and a nonprofit foundation formed to assist in locating the missing persons. The working group shall be funded by private resources.

Sec. 13. Minnesota Statutes 2008, section 390.25, subdivision 2, is amended to read:

Subd. 2. **Report to BCA.** (a) After ~~60~~ 30 days, the coroner or medical examiner shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse information to be entered into federal and state databases that can aid in the identification, including the National Crime Information Center database. The coroner or medical examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for DNA analysis. DNA



profiles and information shall be entered by the Bureau of Criminal Apprehension into federal and state DNA databases within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

(b) If a deceased's remains are identified as a missing person, the Bureau of Criminal Apprehension or the lead law enforcement agency shall attempt to locate family members of the deceased person and inform them of the death and location of the deceased person's remains. All efforts to locate and notify family members shall be recorded and retained by the Bureau of Criminal Apprehension.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 626.8454, is amended by adding a subdivision to read:

Subd. 4. **Available resources.** If an agency, board, or local representative reviews or updates its policies for missing children or persons investigations, it may consider the following resources:

(1) nonprofit search and rescue organizations that provide trained animal searches, specialized equipment, and man trackers;

(2) assistance from other law enforcement agencies at the local, state, or federal level, or qualified missing persons organizations;

(3) use of subpoenas or search warrants for electronic and wireless communication devices, computers, and Web sites; and

(4) assistance and services provided by the Civil Air Patrol.

**EFFECTIVE DATE.** This section is effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to public safety; establishing Brandon's Law; implementing procedures for investigating missing person cases; amending Minnesota Statutes 2008, sections 299C.51; 299C.52; 299C.53; 299C.54, subdivisions 1, 2, 3, 3a; 299C.55; 299C.56; 299C.565; 390.25, subdivision 2; 626.8454, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299C."

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1309, A bill for an act relating to transportation appropriations; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers, contingent appropriations, and tort claims; providing for various fees and accounts; reducing appropriation for bridge collapse and other highway construction projects for fiscal year 2009; making technical and clarifying changes; amending Laws 2008, chapter 152, article 1, section 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$101,590,000</u>	<u>\$94,030,000</u>	<u>\$195,620,000</u>
<u>Airports</u>	<u>21,909,000</u>	<u>19,659,000</u>	<u>41,568,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>	<u>1,021,264,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>	<u>275,403,000</u>
<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>	<u>98,076,000</u>
<u>H.U.T.D.</u>	<u>9,538,000</u>	<u>9,838,000</u>	<u>19,376,000</u>
<u>Trunk Highway</u>	<u>1,263,292,000</u>	<u>1,369,846,000</u>	<u>2,633,138,000</u>
<b><u>Total</u></b>	<b><u>\$2,076,156,000</u></b>	<b><u>\$2,208,289,000</u></b>	<b><u>\$4,284,445,000</u></b>

Sec. 2. **TRANSPORTATION APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the trunk highway fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
2010                      2011

Sec. 3. **DEPARTMENT OF TRANSPORTATION**

Subdivision 1. **Total Appropriation**    **\$1,849,926,000**                      **\$1,983,923,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>18,704,000</u>	<u>11,144,000</u>

<u>Airports</u>	<u>21,859,000</u>	<u>19,609,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>
<u>Trunk Highway</u>	<u>1,178,574,000</u>	<u>1,287,292,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Multimodal Systems**

**(a) Airport Development and Assistance** 16,548,000      14,298,000

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

**(b) Aviation Support and Services** 6,123,000      6,123,000

Appropriations by Fund

<u>Airports</u>	<u>5,286,000</u>	<u>5,286,000</u>
<u>Trunk Highway</u>	<u>837,000</u>	<u>837,000</u>

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

**(c) Airport Development Appropriation Adjustments**

If an appropriation for airport development and assistance under paragraph (a) does not exhaust the balance in the state airports fund in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated as provided in paragraph (a).

If the appropriation for airport development and assistance under paragraph (a) or this paragraph does exhaust the balance in the state airports fund in the year for which it is made, the commissioner of finance shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount by which the appropriation exceeds the balance and shall then reduce that amount from the appropriation.

(d) **Transit** 18,549,000 10,989,000

Appropriations by Fund

General 17,774,000 10,214,000

Trunk Highway 775,000 775,000

The base appropriation from the general fund for fiscal years 2012 and 2013 is \$17,774,000 for each year.

(e) **Commuter and Passenger Rail** 500,000 500,000

This appropriation is from the general fund for (1) development of the comprehensive statewide freight and passenger rail plan under Minnesota Statutes, section 174.03, subdivision 1b, and (2) passenger rail system planning, alternatives analysis, environmental analysis, design, preliminary engineering, and land acquisition under Minnesota Statutes, sections 174.632 to 174.636.

(f) **Freight** 5,262,000 5,262,000

Appropriations by Fund

General 365,000 365,000

Trunk Highway 4,897,000 4,897,000

Subd. 3. State Roads

(a) **Infrastructure Operations and Maintenance** 250,457,000 242,651,000

The base appropriation for fiscal years 2012 and 2013 is \$257,395,000 for each year.

(b) **Infrastructure Investment Support** 200,527,000 194,384,000

The base appropriation for fiscal years 2012 and 2013 is \$205,988,000 for each year.

Of the appropriation for fiscal year 2010, \$390,000 is for engineering, signage, and roadway marking related to speed limit requirements under Minnesota Statutes, section 169.14, subdivision 2a.

\$266,000 the first year and \$266,000 the second year are available for grants to metropolitan planning organizations outside the seven-county metropolitan area.

\$75,000 the first year and \$75,000 the second year are for a transportation research contingent account to finance research projects that are reimbursable from the federal government or from other sources. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$600,000 the first year and \$600,000 the second year are available for grants for transportation studies outside the metropolitan area to identify critical concerns, problems, and issues. These grants are available (1) to regional development commissions; (2) in regions where no regional development commission is functioning, to joint powers boards established under agreement of two or more political subdivisions in the region to exercise the planning functions of a regional development commission; and (3) in regions where no regional development commission or joint powers board is functioning, to the department's district office for that region.

**(c) State Road Construction**

557,300,000

612,700,000

The base appropriation for fiscal years 2012 and 2013 is \$635,000,000 for each year.

It is estimated that these appropriations will be funded as follows:

Appropriations by Fund

Federal Highway Aid 301,100,000 388,500,000

Highway User Taxes 256,200,000 224,200,000

This appropriation is for the actual construction, reconstruction, and improvement of trunk highways, including design-build contracts and consultant usage to support these activities. This includes the cost of actual payment to landowners for lands acquired for highway rights-of-way, payment to lessees, interest subsidies, and relocation expenses.

The commissioner of transportation shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of any significant events that should cause these estimates to change.

The commissioner may transfer up to \$15,000,000 each year to the transportation revolving loan fund.

The commissioner may receive money covering other shares of the cost of partnership projects. These receipts are appropriated to the commissioner for these projects.

**(d) Highway Debt Service**

100,598,000

169,752,000

\$85,945,000 the first year and \$153,656,000 the second year are for transfer to the state bond fund. If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the Committee on

Finance of the senate and the Committee on Ways and Means of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation. Any excess appropriation cancels to the trunk highway fund.

(e) **Electronic Communications** 5,177,000 5,177,000

Appropriations by Fund

General 9,000 9,000

Trunk Highway 5,168,000 5,168,000

The general fund appropriation is to equip and operate the Roosevelt signal tower for Lake of the Woods weather broadcasting.

Subd. 4. Local Roads

(a) **County State Aids** 496,786,000 524,478,000

This appropriation is from the county state-aid highway fund and is available until spent.

(b) **Municipal State Aids** 134,003,000 141,400,000

This appropriation is from the municipal state-aid street fund and is available until spent.

(c) **State Aid Appropriation Adjustments**

If an appropriation for either county state aids or municipal state aids does not exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purposes of county state aids or municipal state aids, as appropriate.

If the appropriation for either county state aids or municipal state aids does exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount by which the appropriation exceeds the balance and shall then reduce that amount from the appropriation.

**Subd. 5. General Support and Services**

(a) **Department Support** 40,735,000 39,388,000

Appropriations by Fund

Airports 25,000 25,000

Trunk Highway 40,710,000 39,363,000

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$41,907,000 for each year.

(b) **Buildings** 17,361,000 16,821,000

Appropriations by Fund

General 56,000 56,000

Trunk Highway 17,305,000 16,765,000

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$17,784,000 for each year.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

**Subd. 6. Transfers**

(a) With the approval of the commissioner of finance, the commissioner of transportation may transfer unencumbered balances among the appropriations from the trunk highway fund and the state airports fund made in this section. No transfer may be made from the appropriation for state road construction. No transfer may be made from the appropriations for debt service to any other appropriation. Transfers under this paragraph may not be made between funds. Transfers between programs must be reported immediately to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance.

(b) The commissioner of finance shall transfer from the flexible account in the county state-aid highway fund \$8,440,000 the first year and \$1,550,000 the second year to the municipal turnback account in the municipal state-aid street fund.

**Subd. 7. Use of State Road Construction Appropriations**

Any money appropriated to the commissioner of transportation for state road construction for any fiscal year before fiscal year 2010 is available to the commissioner during the biennium to the extent

that the commissioner spends the money on the state road construction project for which the money was originally encumbered during the fiscal year for which it was appropriated. The commissioner of transportation shall report to the commissioner of finance by August 1, 2009, and August 1, 2010, on a form the commissioner of finance provides, on expenditures made during the previous fiscal year that are authorized by this subdivision.

**Subd. 8. Contingent Appropriation**

The commissioner of transportation may request an appropriation of an unappropriated balance in the trunk highway fund in the biennium as provided under Minnesota Statutes, section 161.358, for (1) trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund or to take advantage of federal advanced construction funding; (2) trunk highway maintenance in order to meet an emergency; or (3) payment of tort or environmental claims.

Nothing in this subdivision authorizes the commissioner to increase the use of federal advanced construction funding beyond amounts specifically authorized. Any transfer as a result of the use of federal advanced construction funding must include an analysis of the effects on the long-term trunk highway fund balance.

**Sec. 4. METROPOLITAN COUNCIL**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b><u>\$75,186,000</u></b>	<b><u>\$75,186,000</u></b>
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The appropriations in this section are from the general fund.

The amounts that may be spent for each purpose are specified in the following subdivisions.

<b>Subd. 2. <u>Bus Transit</u></b>	<b><u>69,893,000</u></b>	<b><u>69,893,000</u></b>
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This appropriation is for bus system operations.

Of this appropriation, \$129,000 for fiscal year 2010 and \$140,000 for fiscal year 2011 is for transit service for disabled veterans under Minnesota Statutes, section 473.408, subdivision 10.

<b>Subd. 3. <u>Rail Operations</u></b>	<b><u>5,293,000</u></b>	<b><u>5,293,000</u></b>
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This appropriation is for operations of the Hiawatha light rail transit line.

**Sec. 5. DEPARTMENT OF PUBLIC SAFETY**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b><u>\$150,069,000</u></b>	<b><u>\$148,205,000</u></b>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>7,700,000</u>	<u>7,700,000</u>
<u>H.U.T.D.</u>	<u>9,413,000</u>	<u>9,713,000</u>
<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>
<u>Trunk Highway</u>	<u>83,918,000</u>	<u>81,754,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Administration and Related Services

<u>(a) Office of Communications</u>	<u>434,000</u>	<u>434,000</u>
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Appropriations by Fund

<u>General</u>	<u>41,000</u>	<u>41,000</u>
<u>Trunk Highway</u>	<u>393,000</u>	<u>393,000</u>

<u>(b) Public Safety Support</u>	<u>8,035,000</u>	<u>8,035,000</u>
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Appropriations by Fund

<u>General</u>	<u>3,163,000</u>	<u>3,163,000</u>
<u>H.U.T.D.</u>	<u>1,366,000</u>	<u>1,366,000</u>
<u>Trunk Highway</u>	<u>3,506,000</u>	<u>3,506,000</u>

\$380,000 the first year and \$380,000 the second year are appropriated from the general fund for payment of public safety officer survivor benefits under Minnesota Statutes, section 299A.44. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$1,367,000 the first year and \$1,367,000 the second year are appropriated from the general fund to be deposited in the public safety officer's benefit account. This money is available for reimbursements under Minnesota Statutes, section 299A.465.

\$508,000 the first year and \$508,000 the second year are appropriated from the general fund for soft body armor reimbursements under Minnesota Statutes, section 299A.38.

\$792,000 the first year and \$792,000 the second year are appropriated from the general fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for general fund purposes in the administration and related services program.

\$610,000 the first year and \$610,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for highway user tax distribution fund purposes in the administration and related services program.

\$716,000 the first year and \$716,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the general fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the general fund for expenses not related to the fund. These represent amounts appropriated out of the general fund for operation of the criminal justice data network related to driver and motor vehicle licensing.

(c) **Technical Support Services** 3,835,000 3,835,000

Appropriations by Fund

<u>General</u>	<u>1,472,000</u>	<u>1,472,000</u>
<u>H.U.T.D.</u>	<u>19,000</u>	<u>19,000</u>
<u>Trunk Highway</u>	<u>2,344,000</u>	<u>2,344,000</u>

Subd. 3. State Patrol

(a) **Patrolling Highways** 69,597,000 67,433,000

Appropriations by Fund

<u>General</u>	<u>37,000</u>	<u>37,000</u>
<u>H.U.T.D.</u>	<u>92,000</u>	<u>92,000</u>
<u>Trunk Highway</u>	<u>69,468,000</u>	<u>67,304,000</u>

The base appropriation from the trunk highway fund for fiscal years 2012 and 2013 is \$71,393,000 for each year.

(b) **Commercial Vehicle Enforcement** 7,771,000 7,771,000

(c) **Capitol Security** 2,987,000 2,987,000

This appropriation is from the general fund.

The commissioner may not (1) spend any money from the trunk highway fund for capitol security or (2) permanently transfer any state trooper from the patrolling highways activity to capitol security.

The commissioner may not transfer any money (1) appropriated for Department of Public Safety administration, the patrolling of highways, commercial vehicle enforcement, or driver and vehicle services to capitol security or (2) from capitol security.

**Subd. 4. Driver and Vehicle Services**

(a) **Vehicle Services** 26,909,000 27,209,000

Appropriations by Fund

Special Revenue 18,973,000 18,973,000

H.U.T.D. 7,936,000 8,236,000

The special revenue fund appropriation is from the vehicle services operating account.

(b) **Driver Services** 28,712,000 28,712,000

Appropriations by Fund

Special Revenue 28,711,000 28,711,000

Trunk Highway 1,000 1,000

The special revenue fund appropriation is from the driver services operating account.

**Subd. 5. Traffic Safety** 435,000 435,000

**Subd. 6. Pipeline Safety** 1,354,000 1,354,000

This appropriation is from the pipeline safety account in the special revenue fund.

**Sec. 6. GENERAL CONTINGENT ACCOUNTS** \$375,000 \$375,000

Appropriations by Fund

Trunk Highway 200,000 200,000

H.U.T.D. 125,000 125,000

Airports 50,000 50,000

The appropriations in this section from the trunk highway fund, the highway user tax distribution fund, and the state airports fund may only be spent upon approval as provided under Minnesota Statutes, section 161.358.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 7. **TORT CLAIMS**

**\$600,000**

**\$600,000**

This appropriation is to the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 8. Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended by Laws 2008, chapter 363, article 11, section 10, is amended to read:

Subd. 2. **Multimodal Systems**

(a) **Aeronautics**

(1) **Airport Development and Assistance**

20,298,000

5,298,000

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

\$6,000,000 the first year is a onetime appropriation and does not add to the base appropriations. The base for this appropriation for fiscal year 2010 is \$14,298,000.

Of this appropriation \$200,000 the first year is to the Legislative Coordinating Commission for the administrative expenses of the Airport Funding Advisory Task Force and for other costs relating to the preparation of the task force report, including the costs of hiring a consultant, if needed. Any remaining amount of this appropriation shall revert to the state airports fund.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

(2) **Aviation Support and Services**

Appropriations by Fund

Airports	5,184,000	5,286,000
Trunk Highway	852,000	866,000

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

(b) **Transit**

Appropriations by Fund

General	18,813,000	<del>18,816,000</del> 26,376,000
Trunk Highway	740,000	761,000

Of the appropriation in fiscal year 2009, \$7,560,000 may be expended for financial assistance under Minnesota Statutes, section 174.24, notwithstanding the payment schedule under Minnesota Statutes, section 174.24, subdivision 5.

(c) **Freight**

Appropriations by Fund

General	357,000	367,000
Trunk Highway	5,028,000	5,158,000

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

Sec. 9. Laws 2008, chapter 152, article 1, section 5, is amended to read:

Sec. 5. **APPROPRIATION; TRANSPORTATION EMERGENCY RELIEF.**

\$55,000,000 in fiscal year 2008 and ~~\$77,000,000~~ \$33,000,000 in fiscal year 2009 are appropriated to the commissioner of transportation from the trunk highway fund for the purposes specified in the federal grants and aids related to the I-35W bridge collapse on marked Interstate Highway I-35W in Minneapolis. The appropriation in fiscal year 2009 is available for other trunk highway construction projects. This appropriation is in addition to appropriations under Laws 2007, chapter 143, article 1, section 3, and Laws 2007, First Special Session chapter 2, article 2, section 2.

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

ARTICLE 2

TRANSPORTATION FINANCE AND POLICY

Section 1. Minnesota Statutes 2008, section 161.081, is amended by adding a subdivision to read:

Subd. 4. **Metropolitan routes of regional significance account.** (a) For purposes of this subdivision, the following terms have the meanings given them:

(1) "metropolitan county" has the meaning given in section 473.121, subdivision 4; and

(2) "population" has the meaning given in section 477A.011, subdivision 3, except that it excludes the three most populous cities in the metropolitan area.

(b) The metropolitan routes of regional significance account is created in the state treasury. Funds in the account are for allocation to metropolitan counties to assist in paying the costs of construction, reconstruction, or maintenance of county highways with statewide or regional significance that have not been fully funded through other state, federal, or local funding sources.

(c) The commissioner shall allocate funds in the account to each metropolitan county so that the county receives an amount proportional to the percentage that its population, estimated or established by July 15 of the year prior to the current calendar year, bears to the total population of the counties receiving funds under this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 2. **[161.358] CONTINGENT APPROPRIATIONS.**

Subdivision 1. **Application.** This section only applies as specifically provided in conjunction with a contingent appropriation under law, and provides for the commissioner of transportation, or another named commissioner, to obtain appropriation authority from the trunk highway fund, or another named fund, for transportation purposes.

Subd. 2. **Definition.** (a) For purposes of this section, the following term has the meaning given.

(b) "Transportation Contingent Appropriations Group" or "TCAG" means a group comprised of the following members:

(1) the members of the Legislative Advisory Commission under section 3.30; and

(2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance.

Subd. 3. **Appropriations process; request; hearings.** (a) To request an appropriation under this section, the commissioner shall submit to members of the Transportation Contingent Appropriations Group written notice and request for appropriation authority. The notice must provide information on the appropriation authority being sought, and request the written response of each TCAG member within ten days of the date of notification.

(b) Upon request by any member of the Transportation Contingent Appropriations Group for further information, the TCAG shall hold hearings on the requested appropriation authority. A member must make the request for further information within ten days of the date of notification under paragraph (a).

(c) The division chair of the finance committee with jurisdiction over transportation finance in the senate and the division chair of the appropriate finance committee or division with jurisdiction over transportation finance in the house of representatives shall on an alternating basis chair the TCAG hearings. The TCAG shall conclude hearings and provide written approval or disapproval of the request for appropriation authority within six weeks of the date of notification.

Subd. 4. **Approval.** A member of the Transportation Contingent Appropriations Group is deemed to approve the commissioner's request for appropriation authority if:

(1) no request for further information is made under subdivision 3, paragraph (b), and that member does not respond with written disapproval within ten days of the date of notification under subdivision 3, paragraph (a); or

(2) a request for further information is made, and that member does not respond with written disapproval within six weeks of the date of notification.

Subd. 5. **Contingent appropriation.** Upon approval of the governor and the approval of a minimum of five members of the Transportation Contingent Appropriations Group, the funds requested under subdivision 3 are appropriated to the commissioner from the trunk highway fund, or another named fund, and must be utilized in conformance with the purposes specified.

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

Sec. 3. Minnesota Statutes 2008, section 161.36, subdivision 7, as added by Laws 2009, chapter 9, section 1, is amended to read:

Subd. 7. **Economic recovery funds.** (a) All federal funds made available as of April 2, 2009, to the commissioner under title XII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the act), and designated for transportation purposes, including but not limited to assistance for highways and bridges, transit, aeronautics, ports, and railroads, are appropriated to the commissioner from the trunk highway fund or the federal fund, as appropriate. ~~This appropriation includes any funds not initially made available to the commissioner under the act, including but not limited to competitive grant awards and funds made available in addition to the amount expected on the effective date of this section.~~—The money is available until expended.

(b) The commissioner may request an appropriation from the trunk highway fund or the federal fund, as appropriate, as provided under section 161.358, for funds made available to the commissioner under the act that are not appropriated in paragraph (a).

(c) The commissioner shall make every reasonable effort to seek and utilize all funds available under title XII of the act.

~~(e)~~ (d) The commissioner shall expend funds appropriated under this subdivision in conformance with federal requirements established in association with use of the funds. The commissioner may expend up to 17 percent of the funds for program delivery.

~~(d)~~ (e) Notwithstanding section 360.305, subdivision 4, no local contribution is required for eligible aeronautics project elements funded by a federal grant-in-aid through the act.

~~(e)~~ (f) Within two weeks of submitting each report to the United States Department of Transportation as required for the federal aid under this subdivision, the commissioner shall submit a corresponding report to the chairs and ranking members of the house of representatives and senate committees with jurisdiction over transportation policy and finance. The corresponding report must contain (1) a copy of the report submitted to the United States Department of Transportation, and (2) information on the geographic distribution of projects funded under this subdivision, which at a minimum specifies the amount provided for highways and bridges, transit, aeronautics, ports, and railroads within each of the department's districts.

Sec. 4. Minnesota Statutes 2008, section 162.12, subdivision 2, is amended to read:

Subd. 2. **Administrative costs.** A sum of ~~1-1/2~~ two percent shall be deducted from the total available in the municipal state-aid street fund, set aside in a separate account, and used for administration costs incurred by the state Transportation Department in carrying out the provisions relating to the municipal state-aid street system.

Sec. 5. Minnesota Statutes 2008, section 169.14, is amended by adding a subdivision to read:

Subd. 2a. **Increased speed limit when passing.** Notwithstanding subdivision 2, the speed limit is increased by ten miles per hour over the posted speed limit when the driver:

- (1) is on a two-lane highway having one lane for each direction of travel;
- (2) is on a highway with a posted speed limit that is equal to or higher than 55 miles per hour;
- (3) is overtaking and passing another vehicle proceeding in the same direction of travel; and
- (4) meets the requirements in section 169.18.

Sec. 6. Minnesota Statutes 2008, section 174.24, subdivision 1a, is amended to read:

Subd. 1a. **Transit service needs implementation plan.** The commissioner shall develop a transit service needs implementation plan that contains a goal of meeting at least 80 percent of unmet transit service needs in greater Minnesota by July 1, 2015, and meeting at least 90 percent of unmet transit service needs in greater Minnesota by July 1, 2025. The plan must include, but is not limited to, the following: an analysis of ridership and transit service needs throughout greater Minnesota; a calculation of unmet needs; an assessment of the level and type of service required to meet unmet needs; an analysis of costs and revenue options; and, a plan to reduce unmet transit service needs as specified in this subdivision. The plan must specifically address special transportation service ridership and needs. The plan must also provide that recipients of operating assistance under this section provide public transit service without charge for disabled veterans in accordance with subdivision 7. The commissioner may amend the plan as necessary, and may use all or part of the 2001 greater Minnesota public transportation plan created by the Minnesota Department of Transportation.

Sec. 7. Minnesota Statutes 2008, section 174.24, is amended by adding a subdivision to read:

**Subd. 7. Transit service for disabled veterans.** On and after July 1, 2009, an eligible recipient of operating assistance under this section, who contracts or has contracted to provide public transit, shall provide public transit service free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

Sec. 8. Minnesota Statutes 2008, section 174.50, is amended by adding a subdivision to read:

**Subd. 6c. Fracture-critical bridges.** (a) The commissioner may make a grant to any political subdivision for replacement or rehabilitation of a fracture-critical bridge. To be eligible for a grant under this subdivision, the project must produce a bridge structure:

- (1) that is no longer classified as fracture critical, by having alternate load paths; and
  - (2) whose failure of a main component will not result in the collapse of the bridge.
- (b) A grant under this subdivision is subject to the procedures and criteria established under subdivisions 5 and 6.

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

Sec. 9. **[174.632] PASSENGER RAIL; COMMISSIONER'S DUTIES.**

(a) The planning, design, development, construction, operation, and maintenance of passenger rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity.

(b) The commissioner is responsible for all aspects of planning, designing, developing, constructing, equipping, operating, and maintaining passenger rail, including system planning, alternatives analysis, environmental studies, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans.



(c) The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities.

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

Sec. 10. **[174.634] PASSENGER RAIL; FUNDING.**

(a) The commissioner may apply for funding from federal, state, regional, local, and private sources to carry out the commissioner's duties in section 174.632.

(b) Section 174.88, subdivision 2, does not apply to the commissioner's performance of duties and exercise of powers under sections 174.632 to 174.636.

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

Sec. 11. **[174.636] PASSENGER RAIL; EXERCISE OF POWER.**

(a) The commissioner has all powers necessary to carry out the duties specified in section 174.632. In the exercise of those powers, the commissioner may:

(1) acquire by purchase, gift, or by eminent domain proceedings as provided by law, all land and property necessary to preserve future passenger rail corridors or to construct, maintain, and improve passenger rail corridors;

(2) let all necessary contracts as provided by law; and

(3) make agreements with and cooperate with any governmental authority or private entity to carry out statutory duties related to passenger rail.

(b) The commissioner shall consult with metropolitan planning organizations and regional rail authorities in areas where passenger rail corridors are under consideration to ensure that passenger rail services are integrated with existing rail and transit services and other transportation facilities to provide as nearly as possible connected, efficient, and integrated services.

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

Sec. 12. Minnesota Statutes 2008, section 297A.815, subdivision 3, is amended to read:

Subd. 3. **Motor vehicle lease sales tax revenue.** (a) For purposes of this subdivision, "net revenue" means an amount equal to:

(1) the revenues, including interest and penalties, collected under this section, during the fiscal year; less

(2) the estimated reduction in individual income tax receipts and the estimated amount of refunds paid out under section 290.06, subdivision 34, for the fiscal year.

(b) On or before June 30 of each fiscal year, the commissioner of revenue shall estimate the amount of the revenues and subtraction under paragraph (a) for the current fiscal year.

(c) On or after July 1 of the subsequent fiscal year, the commissioner of finance shall transfer the net revenue as estimated in paragraph (b) from the general fund, as follows:

(1) 65 percent to the metropolitan area transit account;

(2) 50 25 percent to the greater Minnesota transit account; and

~~(2) 50 percent to the county state aid highway fund. Notwithstanding any other law to the contrary, the commissioner of transportation shall allocate the funds transferred under this clause to the counties in the metropolitan area, as defined in section 473.121, subdivision 4, excluding the counties of Hennepin and Ramsey, so that each county shall receive of such amount the percentage that its population, as defined in section 477A.011, subdivision 3, estimated or established by July 15 of the year prior to the current calendar year, bears to the total population of the counties receiving funds under this clause.~~

(3) ten percent to the metropolitan routes of regional significance account under section 161.081, subdivision 4.

(d) For fiscal years 2010 and 2011, the amount under paragraph (a), clause (1), must be calculated using the following percentages of the total revenues:

(1) for fiscal year 2010, 83.75 percent; and

(2) for fiscal year 2011, 93.75 percent.

Sec. 13. Minnesota Statutes 2008, section 473.408, is amended by adding a subdivision to read:

Subd. 10. **Transit service for disabled veterans.** (a) On and after the effective date of this section, the council shall provide regular route transit, as defined in section 473.385, subdivision 1, free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

(b) The requirements under this subdivision apply to operators of regular route transit (1) receiving financial assistance under section 473.388, or (2) operating under section 473.405, subdivision 12.

Sec. 14. **FUND TRANSFERS; METROPOLITAN COUNCIL TRANSIT SERVICE.**

Subdivision 1. **Metropolitan livable communities fund.** (a) Notwithstanding Minnesota Statutes, sections 473.25 to 473.255, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011, funds from:

(1) the revenues and amounts credited, transferred, or distributed to the metropolitan livable communities fund accounts in 2009, 2010, and 2011 pursuant to Minnesota Statutes, sections 473.252, 473.253, 473.254, and 473F.08, subdivision 3b, that are not committed to grant or loan awards made by the council; and

(2) balances in the metropolitan livable communities fund accounts in 2009, 2010, and 2011 that are not committed to grant or loan awards made by the council.

(b) The council may not transfer proceeds from solid waste bonds issued under Minnesota Statutes, section 473.831, before August 1, 1992, for the purposes specified in this section.

(c) The total amount transferred under paragraph (a) may not exceed \$1,000,000.

(d) If the council transfers funds under this subdivision, the council shall amend the annual distribution plan described in Minnesota Statutes, section 473.25, paragraph (d), and include information about the transfer in the annual report required under Minnesota Statutes, section 473.25, paragraph (e).

Subd. 2. **Right-of-way acquisition loan fund.** (a) Notwithstanding Minnesota Statutes, section 473.167, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 funds from the amounts levied and collected in 2009, 2010, and 2011 under Minnesota Statutes, section 473.167, subdivision 3.

(b) The total amount transferred under paragraph (a) may not exceed \$3,000,000.

Subd. 3. **Use of transferred funds.** The council shall use the amounts transferred under subdivisions 1 and 2 to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449.

**EFFECTIVE DATE; APPLICATION.** This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 15. **MAINTENANCE OF EFFORT.**

(a) On or after the effective date of this section, with transit, paratransit, and light rail and commuter rail services provided by the Metropolitan Council under Minnesota Statutes, sections 473.371 to 473.449, the council may not (1) increase fares, or (2) reduce service, including but not limited to reducing the frequency of bus or rail service, or eliminating existing routes.

(b) This section applies to transit operators receiving financial assistance from the council under Minnesota Statutes, sections 473.384; 473.386; 473.388; and 473.405, subdivision 12.

(c) This provision applies for calendar years 2009, 2010, and 2011.

**EFFECTIVE DATE; APPLICATION.** This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 16. **PASSENGER RAIL REPORT.**

By February 1, 2010, the commissioner of transportation shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance concerning the status of passenger rail in this state. The report must be made electronically and made available in print only upon request. The report must include a summary of the current status of passenger rail projects and recommend:

(1) a public participation process for intercity passenger rail planning;

(2) appropriate participation and levels of review by local units of government;

(3) future sources of funding for capital costs and operations;

(4) definitions to distinguish passenger rail from commuter rail;

(5) legislative changes to facilitate and improve the passenger rail planning processes and operation; and

(6) state operating subsidy mechanisms designed to create local tax equity between communities served by passenger rail and communities served by commuter rail.

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

Sec. 17. **LAND USE AND PLANNING REPORT.**

(a) The Metropolitan Council shall transfer \$500,000 from the livable communities demonstration account in the metropolitan livable communities fund to the Board of Regents of the University of Minnesota for the Center for Transportation Studies to develop the resources and report as provided in this section.

(b) By December 15, 2010, the Center for Transportation Studies shall develop resources for use by local governments and the Metropolitan Council to identify land use and transportation planning strategies and processes to support the reduction of greenhouse gas emissions through the reduction of per capita vehicle miles driven. The resources must take into account recent transportation trends, including travel and demographic trends specific to the Twin Cities Metropolitan Area. The Center for Transportation Studies shall identify and use existing information and models to the extent they are useful and accurate. The Center for Transportation Studies shall collaborate with the Metropolitan Council and local units of government interested in development and refinement of the resources.

(c) By January 15, 2011, the Center for Transportation Studies shall submit a report on the resources and findings to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance."

Delete the title and insert:

"A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; modifying previous appropriations provisions; modifying various provisions related to transportation finance and policy; modifying provisions related to speed limits, fracture-critical bridges, transit, passenger rail, motor vehicle lease sales tax revenue allocations, and transit services; requiring reports; amending Minnesota Statutes 2008, sections 161.081, by adding a subdivision; 161.36, subdivision 7, as added; 162.12, subdivision 2; 169.14, by adding a subdivision; 174.24, subdivision 1a, by adding a subdivision; 174.50, by adding a subdivision; 297A.815, subdivision 3; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, section 5; proposing coding for new law in Minnesota Statutes, chapters 161; 174."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1657, A bill for an act relating to public safety; appropriating money for the Departments of Public Safety and Corrections.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$908,031,000</u>	<u>\$898,494,000</u>	<u>\$1,806,525,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>	<u>38,000,000</u>
<u>State Government Special Revenue</u>	<u>66,573,000</u>	<u>70,336,000</u>	<u>136,909,000</u>
<u>Environmental Fund</u>	<u>69,000</u>	<u>69,000</u>	<u>138,000</u>
<u>Special Revenue Fund</u>	<u>14,559,000</u>	<u>14,559,000</u>	<u>29,118,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>	<u>3,882,000</u>
<b><u>Total</u></b>	<b><u>\$1,010,173,000</u></b>	<b><u>\$1,004,399,000</u></b>	<b><u>\$2,014,572,000</u></b>

Sec. 2. **PUBLIC SAFETY APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2010</u></b>	<b><u>2011</u></b>

Sec. 3. **SUPREME COURT**

Subdivision 1. **Total Appropriation**

<b><u>\$43,919,000</u></b>	<b><u>\$43,366,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Supreme Court Operations**

<b><u>31,740,000</u></b>	<b><u>31,339,000</u></b>
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(a) **Contingent Account.** \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

(b) **Criminal Justice Forum.** The chief justice is requested to continue the criminal justice forum to evaluate and examine criminal justice efficiencies and costs savings, and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(c) **Federal Stimulus Funds.** The Supreme Court is encouraged to apply for all available grants for federal stimulus funds to: (1) continue drug court programs that lose state funding; and (2) make technological improvements within the judicial system.

(d) **Judicial and Referee Vacancies.** The Supreme Court shall not certify a judicial or referee vacancy under Minnesota Statutes, section 2.722, until it has examined alternative options, such as temporarily suspending certification of the vacant position or assigning a retired judge to temporarily fill the position. Thirty days prior to certifying any judicial or referee vacancy to the governor, the Supreme Court shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety and judiciary policy and finance a report with a detailed explanation of the alternatives that were examined, why those alternatives were rejected, and why certification of the position is necessary for effective judicial administration and adequate access to the courts.

Subd. 3. **Civil Legal Services**

12,179,000

12,027,000

**Legal Services to Low-Income Clients in Family Law Matters.**

Of this appropriation, \$877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 4. **COURT OF APPEALS**

\$10,353,000

\$10,222,000

Sec. 5. **TRIAL COURTS**

\$251,696,000

\$248,540,000

Sec. 6. **TAX COURT**

\$800,000

\$800,000

Sec. 7. **UNIFORM LAWS COMMISSION**

\$51,000

\$50,000

Sec. 8. **BOARD ON JUDICIAL STANDARDS**

\$446,000

\$446,000

The base budget for the Board on Judicial Standards shall be \$321,000 in fiscal year 2012 and \$321,000 in fiscal year 2013.

Sec. 9. **BOARD OF PUBLIC DEFENSE**

\$67,628,000

\$65,028,000

**Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the board's legislative liaison or lobbyist.

Sec. 10. **PUBLIC SAFETY**

Subdivision 1. **Total Appropriation**

\$160,529,000

\$160,892,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	82,439,000	79,039,000
<u>Special Revenue</u>	9,507,000	9,507,000
<u>State Government Special Revenue</u>	66,573,000	70,336,000
<u>Environmental</u>	69,000	69,000
<u>Trunk Highway</u>	1,941,000	1,941,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

(a) **Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the agency's legislative liaison or lobbyist.

(b) **Employees of the Governor.** Any personnel costs attributable to the Office of the Governor must be accounted for through an appropriation to the Office of the Governor. The commissioner may not enter into agreements with the Office of the Governor under which personnel costs in the office of the governor are supported by appropriations to the agency.

(c) **Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars in the seven-county metropolitan area by 20 percent.

Subd. 2. **Emergency Management** 2,583,000 2,583,000

Appropriations by Fund

<u>General</u>	1,910,000	1,910,000
<u>Special Revenue</u>	604,000	604,000
<u>Environmental</u>	69,000	69,000

**Hazmat and Chemical Assessment Teams.** \$604,000 each year is appropriated from the fire safety account in the special revenue fund. These amounts must be used to fund the hazardous materials and chemical assessment teams.

Subd. 3. **Criminal Apprehension** 43,763,000 42,063,000

Appropriations by Fund

<u>General</u>	41,815,000	40,115,000
<u>State Government Special Revenue</u>	7,000	7,000
<u>Trunk Highway</u>	1,941,000	1,941,000

(a) **Forensic Scientists.** When formulating the budget and the need for additional scientists for the state's crime labs, the commissioner, in consultation with the superintendent of the Bureau of Criminal Apprehension, must consider the number and capacity of scientists employed in labs operated by local units of government.

(b) **DWI Lab Analysis; Trunk Highway Fund.** Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$1,941,000 each year is appropriated from the trunk highway fund for laboratory analysis related to driving while impaired cases.

<b><u>Subd. 4. Fire Marshal</u></b>	<u>8,000,000</u>	<u>8,000,000</u>
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This appropriation is from the fire safety account in the special revenue fund.

Of this amount, \$5,732,000 each year is for activities under Minnesota Statutes, section 299F.012, and \$2,268,000 each year is for transfer to the general fund under Minnesota Statutes, section 2971.06, subdivision 3.

<b><u>Subd. 5. Alcohol and Gambling Enforcement</u></b>	<u>2,538,000</u>	<u>2,538,000</u>
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Appropriations by Fund

<u>General</u>	<u>1,635,000</u>	<u>1,635,000</u>
<u>Special Revenue</u>	<u>903,000</u>	<u>903,000</u>

This appropriation is from the alcohol enforcement account in the special revenue fund. Of this appropriation, \$750,000 each year shall be transferred to the general fund. The transfer amount for fiscal year 2012 and fiscal year 2013 shall be \$500,000 per year.

<b><u>Subd. 6. Office of Justice Programs</u></b>	<u>37,175,000</u>	<u>35,475,000</u>
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Appropriations by Fund

<u>General</u>	<u>37,079,000</u>	<u>35,379,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>96,000</u>	<u>96,000</u>

(a) **Federal Stimulus Funds; Report.** By June 1, 2009, the Office of Justice Programs shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a detailed plan outlining the competitive grant process to be used to administer the federal stimulus funds. The plan must describe: (1) the administrative process in accepting and reviewing applications, (2) the criteria used in awarding grants, and (3) program reporting requirements.



The Office of Justice Programs must consider awarding grants for federal stimulus funds for the following activities and programs:

(i) trafficking victim programs, including legal advocacy clinics, training programs, public awareness initiatives, and victim services hotlines;

(ii) nonprofit organizations dedicated to providing immediate and long-term emotional support and practical help for families and friends of persons who have died traumatically;

(iii) organizations that provide mentoring grants for children of incarcerated parents;

(iv) youth intervention programs, as defined under Minnesota Statutes, section 299A.73, with an emphasis on those programs that provide early intervention youth services to children in their communities;

(v) programs that seek to develop and increase juvenile detention alternatives;

(vi) re-entry programs for offenders;

(vii) restorative justice programs, as defined in Minnesota Statutes, section 611A.775, except that a program that receives federal funds shall not use the funds for cases involving domestic assault; and

(viii) judicial branch efficiency programs, including e-citation and fine management and collection program improvements.

By October 1, 2009, the Office of Justice Programs must submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a list of all the grants awarded by the Office of Justice Programs using federal stimulus funds, including the name of the grantee, the amount awarded, the funded activities or programs, and the length of the grant.

For purposes of this section, "federal stimulus funds" means funding provided to the state under the American Recovery and Reinvestment Act of 2009.

**(b) Crime Victim and Youth Intervention Programs.** For the biennium ending June 30, 2011, funding for the following programs must not be reduced by more than three percent from the level of state funding provided for the biennium ending June 30, 2009: (1) crime victim reparations; (2) battered women's shelters; (3) general crime victim programs; (4) sexual assault victim programs; and (5) youth intervention programs.

**Subd. 7. Emergency Communication Networks**66,470,00070,233,000

This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

(a) **Public Safety Answering Points.** \$13,664,000 each year is to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2.

(b) **Medical Resource Communication Centers.** \$683,000 each year is for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

(c) **ARMER Debt Service.** \$17,557,000 the first year and \$23,261,000 the second year are to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275.

Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds were appropriated by Laws 2005, chapter 136, article 1, section 9, subdivision 8, or Laws 2007, chapter 54, article 1, section 10, subdivision 8.

(d) **Metropolitan Council Debt Service.** \$1,410,000 each year is to the commissioner of finance for payment to the Metropolitan Council for debt service on bonds issued under Minnesota Statutes, section 403.27.

(e) **ARMER State Backbone Operating Costs.** \$5,060,000 each year is to the commissioner of transportation for costs of maintaining and operating the first and third phases of the statewide radio system backbone.

(f) **ARMER Improvements.** \$1,000,000 each year is for the Statewide Radio Board for costs of design, construction, maintenance of, and improvements to those elements of the statewide public safety radio and communication system that support mutual aid communications and emergency medical services or provide enhancement of public safety communication interoperability.

(g) **Next Generation 911.** \$3,431,000 in fiscal year 2010 and \$6,490,000 in fiscal year 2011 is to replace the current system with the Next Generation Internet Protocol (IP) based network. The base level of funding for fiscal year 2012 shall be \$2,965,000.

(h) **Emergency Communication System.** \$5,000,000 the first year is to be used by the commissioner for any purpose related to the effective operation of the emergency communication system in the state, including the cost of personnel who prepare for and respond to emergencies.

Sec. 11. **PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)**

**\$4,162,000**

**\$4,162,000**

(a) **Excess Amounts Transferred.** This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,162,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,162,000 must be transferred and credited to the general fund.

(b) **Peace Officer Training Reimbursements.** \$3,009,000 each year is for reimbursements to local governments for peace officer training costs.

(c) **Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the board's legislative liaison or lobbyist.

Sec. 12. **PRIVATE DETECTIVE BOARD**

**\$125,000**

**\$125,000**

Sec. 13. **HUMAN RIGHTS**

**\$3,534,000**

**\$3,418,000**

The base budget for the Department of Human Rights shall be \$3,368,000 in fiscal year 2012 and \$3,368,000 in fiscal year 2013.

Sec. 14. **DEPARTMENT OF CORRECTIONS**

Subdivision 1. **Total Appropriation**

**\$466,339,000**

**\$466,759,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>446,449,000</u>	<u>446,869,000</u>
<u>Special Revenue</u>	<u>890,000</u>	<u>890,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

(a) **Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the agency's legislative liaison or lobbyist.

(b) **Employees of the Governor.** Any personnel costs attributable to the Office of the Governor must be accounted for through an appropriation to the Office of the Governor. The commissioner may not enter into agreements with the Office of the Governor under which personnel costs in the Office of the Governor are supported by appropriations to the agency.

(c) **Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars by 20 percent.

**Subd. 2. Correctional Institutions**

328,336,000

333,363,000

Appropriations by Fund

<u>General</u>	<u>308,756,000</u>	<u>313,783,000</u>
<u>Special Revenue</u>	<u>580,000</u>	<u>580,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>

\$19,000,000 each year is from the fiscal stabilization account in the American Recovery and Reinvestment Act of 2009. This is a onetime appropriation.

The general fund base for this program shall be \$331,546,000 in fiscal year 2012 and \$336,085,000 in fiscal year 2013.

(a) **Treatment Alternatives; Report.** By December 15, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance concerning alternative chemical dependency treatment opportunities. The report must identify alternatives that represent best practices in chemical dependency treatment of offenders. The report must contain suggestions for reducing the length of time between offender commitment to the custody of the commissioner and graduation from chemical dependency treatment. To the extent possible, the report shall identify options that will (1) reduce the cost of treatment; (2) expand the number of treatment beds; (3) improve treatment outcomes; and (4) lower the rate of substance abuse relapse and criminal recidivism.

(b) **Challenge Incarceration; Maximum Occupancy.** The commissioner shall work to fill all available challenge incarceration beds for both male and female offenders. If the commissioner fails to fill at least 90 percent of the available challenge incarceration beds by December 1, 2009, the

commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by January 15, 2010, explaining what steps the commissioner has taken to fill the beds and why those steps failed to reach the goal established by the legislature.

**(c) Performance Measures; Per Diem Reduction; Report to the Legislature.** The commissioner of corrections must reduce the fiscal year 2008 average adult facility per diem of \$89.77 by one percent. The base is cut by \$2,850,000 in the first year and \$2,850,000 in the second year to reflect a one percent reduction in the projected adult facility per diem.

In reducing the projected adult facility per diem, the commissioner must consider the following:

(1) cooperating with the state of Wisconsin to obtain economies of scale;

(2) increasing the bed capacity of the challenge incarceration program;

(3) increasing the number of nonviolent drug offenders who are granted conditional release under Minnesota Statutes, section 244.055;

(4) increasing the use of compassionate release or less costly detention alternatives for elderly and infirm offenders;

(5) implementing corrections best practices; and

(6) implementing cost-saving measures used by other states and the federal government.

The commissioner must not eliminate correctional officer positions or implement any other measure that will jeopardize public safety to achieve the mandated cost savings. The commissioner also must not eliminate treatment beds to achieve the mandated cost savings.

If the commissioner fails to reduce the per diem by one percent, the commissioner must:

(i) reduce the funding for operations support by the amount of unrealized savings; and

(ii) submit a report by February 15, 2010, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance that contains descriptions of what efforts the commissioner made

to reduce the per diem, explanations for why those steps failed to reduce the per diem by one percent, proposed legislative options that would assist the commissioner in reducing the adult facility per diem, and descriptions of the specific actions the commissioner took to reduce funding in operations support.

If the commissioner reduces the per diem by more than one percent, the commissioner must use the savings to provide treatment to offenders.

(d) **Drug Court Bed Savings.** The commissioner must consider the bed impact savings of drug courts in formulating its prison bed projections.

Subd. 3. **Community Services**

115,044,000

111,837,000

Appropriations by Fund

<u>General</u>	<u>114,944,000</u>	<u>111,737,000</u>
<u>Special Revenue</u>	<u>100,000</u>	<u>100,000</u>

(a) **Short-Term Offenders.** \$1,607,000 in the first year is for costs associated with the housing and care of short-term offenders sentenced prior to June 30, 2009, and housed in local jails. The commissioner may use up to ten percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. All funds not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed the fiscal year 2009 per diem. All funds remaining after reimbursements are made shall be transferred to the department's institution base budget to offset the costs of housing short-term offenders who are sentenced on or after July 1, 2009, and incarcerated in state correctional facilities. Short-term offenders sentenced before July 1, 2009, may be housed in a state correctional facility at the discretion of the commissioner.

This does not preclude the commissioner from contracting with local jails to house offenders committed to the custody of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

(b) **Federal Grants.** The commissioner must apply for all available grants for federal funds under the American Recovery and Reinvestment Act of 2009 and the Second Chance Act that the department is eligible to receive to continue and expand re-entry and restorative justice programs.

Subd. 4. **Operations Support** 22,959,000 21,559,000

Appropriations by Fund

General 22,749,000 21,349,000

Special Revenue 210,000 210,000

The general fund base for this program shall be \$20,949,000 in fiscal year 2012 and \$20,949,000 in fiscal year 2013.

Sec. 15. **SENTENCING GUIDELINES** \$591,000 \$591,000

ARTICLE 2

COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2008, section 2.722, subdivision 4, is amended to read:

Subd. 4. **Determination of a judicial vacancy.** (a) When a judge of the district court dies, resigns, retires, or is removed from office, the Supreme Court, in consultation with judges and attorneys in the affected district, shall determine ~~within 90 days of~~ after receiving notice of a vacancy from the governor whether the vacant office is necessary for effective judicial administration or is necessary for adequate access to the courts. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. The Supreme Court shall certify any vacancy to the governor, who shall fill it in the manner provided by law.

(b) If a judge of district court fails to timely file an affidavit of candidacy and filing fee or petition in lieu of a fee, the official with whom the affidavits of candidacy are required to be filed shall notify the Supreme Court that the incumbent judge is not seeking reelection. Within five days of receipt of the notice, the Supreme Court shall determine whether the judicial position is necessary for effective judicial administration or adequate access to the courts and notify the official responsible for certifying the election results of its determination. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where the need for additional judgeships exists. If the position is abolished or transferred, the election may not be held. If the position is transferred, the court shall also notify the governor of the transfer. Upon transfer, the position is vacant and the governor shall fill it in the manner provided by law. An order abolishing or transferring a position is effective the first Monday in the next January.

Sec. 2. Minnesota Statutes 2008, section 2.722, subdivision 4a, is amended to read:

Subd. 4a. **Referee vacancy; conversion to judgeship.** When a referee of the district court dies, resigns, retires, or is voluntarily removed from the position, the chief judge of the district shall notify the Supreme Court and may petition to request that the position be converted to a judgeship. The Supreme Court shall determine ~~within 90 days of the petition~~ whether to order the position abolished or convert the position to a judgeship in the affected or another judicial district. The Supreme Court shall certify any judicial vacancy to the governor, who shall fill it in the manner provided by law. The conversion of a referee position to a judgeship under this subdivision shall not reduce the total number of judges and referees hearing cases in the family and juvenile courts.

Sec. 3. Minnesota Statutes 2008, section 2.724, subdivision 2, is amended to read:

Subd. 2. **Procedure.** To promote and secure more efficient administration of justice, the chief justice of the Supreme Court of the state shall supervise and coordinate the work of the courts of the state. The Supreme Court may provide by rule that the chief justice not be required to write opinions as a member of the Supreme Court. Its rules may further provide for it to hear and consider cases in divisions. It may by rule assign temporarily any retired justice of the Supreme Court or one judge of the Court of Appeals or district court judge at a time to act as a justice of the Supreme Court or any number of justices or retired justices of the Supreme Court to act as judges of the Court of Appeals. Upon the assignment of a Court of Appeals judge or a district court judge to act as a justice of the Supreme Court, a judge previously acting as a justice may complete unfinished duties of that position. Any number of justices may disqualify themselves from hearing and considering a case, in which event the Supreme Court may assign temporarily a retired justice of the Supreme Court, a Court of Appeals judge, or a district court judge to hear and consider the case in place of each disqualified justice. ~~A retired justice who is acting as a justice of the Supreme Court or judge of the Court of Appeals under this section shall receive, in addition to retirement pay, out of the general fund of the state, an amount to make the retired justice's total compensation equal to the same salary as a justice or judge of the court on which the justice is acting.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 2.724, subdivision 3, is amended to read:

Subd. 3. **Retired justices and judges.** (a) The chief justice of the Supreme Court may assign a retired justice of the Supreme Court to act as a justice of the Supreme Court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the Supreme Court. The chief justice of the Supreme Court shall determine the pay and expenses to be received by a justice or judge acting pursuant to this paragraph.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the Supreme Court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 86B.705, subdivision 2, is amended to read:

Subd. 2. **Fines and bail money.** (a) All fines, installment payments, and forfeited bail money collected from persons convicted of violations of this chapter or rules adopted thereunder, or of a violation of section 169A.20 involving a motorboat, shall be ~~paid to the county treasurer of the county where the violation occurred by the court administrator or other person collecting the money within 15 days after the last day of the month the money was collected~~ deposited in the state treasury.



(b) One-half of the receipts shall be credited to the general revenue fund ~~of the county~~. The other one-half of the receipts shall be transmitted ~~by the county treasurer~~ to the commissioner of natural resources ~~to be deposited in the state treasury~~ and credited to the water recreation account for the purpose of boat and water safety.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 134A.09, subdivision 2a, is amended to read:

Subd. 2a. **Petty misdemeanor cases and criminal convictions; fee assessment.** In Hennepin County and Ramsey County, the district court administrator or a designee may, upon the recommendation of the board of trustees and by standing order of the judges of the district court, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of a statute or municipal ordinance, a county law library fee. This fee may be collected in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 134A.10, subdivision 3, is amended to read:

Subd. 3. **Petty misdemeanor cases and criminal convictions; fee assessment.** The judge of district court may, upon the recommendation of the board of trustees and by standing order, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of any statute or municipal ordinance, in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty a county law library fee. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case. The item of costs or disbursements may not be assessed for any offense committed prior to the establishment of the county law library.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 152.025, subdivision 1, is amended to read:

Subdivision 1. **Sale crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 152.0262, subdivision 1, is amended to read:

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia;
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime; motor vehicles.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

- (1) ~~when~~ the person is under the influence of alcohol;
- (2) ~~when~~ the person is under the influence of a controlled substance;
- (3) ~~when~~ the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;
- (4) ~~when~~ the person is under the influence of a combination of any two or more of the elements named in clauses (1), ~~(2), and to~~ (3);
- (5) ~~when~~ the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;
- (6) ~~when~~ the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or
- (7) ~~when~~ the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1a. **Driving while impaired crime; motorboat in operation.** It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

- (1) the person is under the influence of alcohol;
- (2) the person is under the influence of a controlled substance;
- (3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motorboat;
- (4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);
- (5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motorboat is 0.08 or more; or
- (6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 13. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1b. **Driving while impaired crime; snowmobile and all-terrain vehicle.** It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the snowmobile or all-terrain vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1c. **Driving while impaired crime; off-highway motorcycle and off-road vehicle.** It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the off-highway motorcycle or off-road vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the off-highway motorcycle or off-road vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 15. Minnesota Statutes 2008, section 169A.25, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 16. Minnesota Statutes 2008, section 169A.26, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 17. Minnesota Statutes 2008, section 169A.27, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of fourth-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 169A.28, subdivision 2, is amended to read:

Subd. 2. **Permissive consecutive sentences; multiple offenses.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c).

(b) When a person is being sentenced for a violation of section 171.09 (violation of condition of restricted license), 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135 (stay of imposition or execution of sentence).

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);
- (2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);
- (3) section 169.791;
- (4) section 169.797;
- (5) section 171.09 (violation of condition of restricted license);
- (6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);
- (7) section 171.24; and
- (8) section 171.30.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 169A.284, is amended to read:

**169A.284 CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.**

Subdivision 1. **When required.** (a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall order the person to pay the cost of the assessment directly to the entity conducting the assessment or providing the assessment services in an amount determined by the entity conducting or providing the service and shall impose a chemical dependency assessment charge of \$125 \$25. The court may waive the \$25 assessment charge, but may not waive the cost for the assessment paid directly to the entity conducting the assessment or providing assessment services. A person shall pay an additional surcharge of \$5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. **Distribution of money.** ~~The county court administrator shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the commissioner of finance to be deposited in the state treasury and credited to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 169A.46, subdivision 1, is amended to read:

Subdivision 1. **Impairment occurred after driving ceased.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

- (1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;
- (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;
- (3) for an offense occurring within ten years of a qualified prior impaired driving incident:
  - (i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or
  - (ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;
- (4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or
- (5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 299D.03, subdivision 5, is amended to read:

Subd. 5. **Traffic fines and forfeited bail money.** (a) All fines and forfeited bail money, ~~from traffic and motor vehicle law violations,~~ collected from persons apprehended or arrested by officers of the State Patrol, shall be ~~paid~~ transmitted by the person or officer collecting the fines, forfeited bail money, or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the ~~county treasurer of the~~



~~county where the violation occurred. commissioner of finance. Except where a different disposition is required in this paragraph, paragraph (b), section 387.213, or otherwise provided by law, three-eighths of these receipts shall be credited to the general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share must be transmitted to the commissioner of finance for deposit deposited in the state treasury and credited to the state general fund. The other five-eighths of these receipts shall be transmitted by that officer to the commissioner of finance and must be deposited in the state treasury and~~ credited as follows: (1) the first \$600,000 in each fiscal year must be credited to the Minnesota grade crossing safety account in the special revenue fund, and (2) remaining receipts must be credited to the state trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be transmitted to the commissioner of finance as provided in this subdivision. deposited in the state treasury and credited to the Minnesota grade crossing safety account or the state trunk highway fund as provided in this paragraph. When section 387.213 also is applicable to the fine, section 387.213 shall be applied before this paragraph is applied. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be ~~paid~~ transmitted by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the ~~county treasurer of the county where the violation occurred commissioner of finance~~. Five-eighths of these receipts shall be ~~transmitted by that officer to the commissioner of finance and shall be~~ deposited in the state treasury and credited to the state highway user tax distribution fund. Three-eighths of these receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, ~~except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share must be transmitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 357.021, subdivision 2, is amended to read:

Subd. 2. **Fee amounts.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the Tax Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$300, except in marriage dissolution actions the fee is ~~\$270~~ \$330.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$300, except in marriage dissolution actions the fee is ~~\$270~~ \$330.

The party requesting a trial by jury shall pay ~~\$75~~ \$100.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, ~~\$10~~ \$14, and ~~\$5~~ \$8 for an uncertified copy.

(3) Issuing a subpoena, ~~\$12~~ \$16 for each name.

(4) Filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases, ~~\$55~~ \$100.

(5) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, ~~\$40~~ \$55.

(6) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, ~~\$30~~ \$40.

(7) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(8) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(9) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(10) For the filing of each partial, final, or annual account in all trusteeships, ~~\$40~~ \$55.

(11) For the deposit of a will, ~~\$20~~ \$27.

(12) For recording notary commission, \$100, of which, notwithstanding subdivision 1a, paragraph (b), \$80 must be forwarded to the commissioner of finance to be deposited in the state treasury and credited to the general fund.

(13) Filing a motion or response to a motion for modification of child support, a fee of ~~\$55~~ \$100.

(14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

(15) In addition to any other filing fees under this chapter, a surcharge in the amount of \$75 must be assessed in accordance with section 259.52, subdivision 14, for each adoption petition filed in district court to fund the fathers' adoption registry under section 259.52.

The fees in clauses (3) and (5) need not be paid by a public authority or the party the public authority represents.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a ~~\$4~~ \$5 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the ~~commissioner of finance~~ court administrator or other entity collecting the surcharge imposed by the court.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 357.021, subdivision 7, is amended to read:

Subd. 7. **Disbursement of surcharges by commissioner of finance.** (a) Except as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the ~~\$4~~ \$5 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall transmit the surcharge to the commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 357.022, is amended to read:

**357.022 CONCILIATION COURT FEE.**

The court administrator in every county shall charge and collect a filing fee of ~~\$50~~ \$65 from every plaintiff and from every defendant when the first paper for that party is filed in any conciliation court action. This section does not apply to conciliation court actions filed by the state. The court administrator shall transmit the fees monthly to the commissioner of finance for deposit in the state treasury and credit to the general fund.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 357.08, is amended to read:

**357.08 PAID BY APPELLANT IN APPEAL.**

There shall be paid to the clerk of the appellate courts by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, when initially filed with the clerk of the appellate courts, the sum of ~~\$500~~ \$550 to the clerk of the appellate courts. An additional filing fee of \$100 shall be required for a petition for accelerated review by the Supreme Court. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for review from a decision of the Court of Appeals. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for permission to appeal. A filing fee of \$100 shall be paid to the clerk of the appellate courts upon the filing by a respondent of a notice of review. The clerk shall transmit the fees to the commissioner of finance for deposit in the state treasury and credit to the general fund.

The clerk shall not file any paper, issue any writ or certificate, or perform any service enumerated herein, until the payment has been made for it. The clerk shall pay the sum into the state treasury as provided for by section 15A.01.

The charges provided for shall not apply to disbarment proceedings, nor to an action or proceeding by the state taken solely in the public interest, where the state is the appellant or moving party, nor to copies of the opinions of the court furnished by the clerk to the parties before judgment, or furnished to the district judge whose decision is under review, or to such law library associations in counties having a population exceeding 50,000, as the court may direct.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 364.08, is amended to read:

**364.08 PRACTICE OF LAW; EXCEPTION.**

This chapter shall not apply to the practice of law or judicial branch employment; but nothing in this section shall be construed to preclude the Supreme Court, in its discretion, from adopting the policies set forth in this chapter.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 375.14, is amended to read:

**375.14 OFFICES AND SUPPLIES FURNISHED FOR COUNTY OFFICERS.**

The county board shall provide offices at the county seat for the auditor, treasurer, county recorder, sheriff, court administrator of the district court, and an office for the county engineer at a site determined by the county board, with suitable furniture and safes and vaults for the security and preservation of the books and papers of the offices, and provide heating, lighting, and maintenance of the offices. The board shall furnish all county officers with all books, stationery, letterheads, envelopes, postage, telephone service, office equipment, electronic technology, and supplies necessary to the discharge of their respective duties ~~and make like provision for the judges of the district court as necessary to the discharge of their duties within the county or concerning matters arising in it.~~ The board is not required to furnish any county officer with professional or technical books or instruments except when the board deems them directly necessary to the discharge of official duties as part of the permanent equipment of the office.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 30. Minnesota Statutes 2008, section 480.15, is amended by adding a subdivision to read:

Subd. 10c. **Uniform collections policies and procedures for courts.** (a) Notwithstanding chapter 16D, the state court administrator under the direction of the Judicial Council may promulgate uniform collections policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts. The court collection process and procedures are not subject to section 16A.125 or chapter 16D.

(b) Court debt means an amount owed to the state directly or through the judicial branch on account of a fee, duty, rent, service, overpayment, fine, assessment, surcharge, court cost, penalty, restitution, damages, interest, bail bond, forfeiture, reimbursement, liability owed, an assignment to the judicial branch, recovery of costs incurred by the judicial branch, or any other source of indebtedness to the judicial branch as well as amounts owed to other public or private entities for which the judicial branch acts in providing collection services, or any other amount owed to the judicial branch.

(c) The courts must pay for the collection services of public or private collection entities as well as the cost of one or more court employees to provide collection interface services between the Department of Revenue, the courts, and one or more collection entities from the money collected. The portion of the money collected which must be paid to the collection entity as collection fees and costs and the portion of the money collected which must be paid to the courts or Department of Revenue for collection services are appropriated from the fund to which the collected money is due.

(d) As determined by the state court administrator, collection costs shall be added to the debts referred to a public or private collection entity for collection.

Collection costs shall include the fees of the collection entity, and may include, if separately provided, skip tracing fees, credit bureau reporting charges, fees assessed by any public entity for obtaining information necessary for debt collection, or other collection-related costs. Collection costs shall also include the costs of one or more court employees employed by the state court administrator to provide a collection interface between the collection entity, the Department of Revenue, and the courts.

If the collection entity collects an amount less than the total due, the payment is applied proportionally to collection costs and the underlying debt. Collection costs in excess of collection agency fees and court employee collection interface costs must be deposited in the general fund as nondedicated receipts.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 31. Minnesota Statutes 2008, section 484.85, is amended to read:

**484.85 DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.**

~~(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:~~

~~(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;~~

~~(2) in arraignments where the defendant waives a preliminary examination, \$10;~~

~~(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and~~

~~(4) the court shall have the authority to waive the collection of fees in any particular case.~~

~~(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.~~

(a) In all cases prosecuted in Ramsey County District Court by an attorney for a municipality or subdivision of government within Ramsey County for violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected by the court administrator shall be forwarded to the commissioner of finance and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, or other law, on or before the last day of each month, the commissioner of finance shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

(1) for offenses committed within the city of St. Paul, two-thirds paid to the treasurer of the city of St. Paul and one-third deposited in the state treasury and credited to the general fund; and

(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half to the treasurer of the municipality or subdivision of government and one-half deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the district court shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

(c) The court administrator shall provide the commissioner of finance with the name of the municipality or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 484.90, subdivision 6, is amended to read:

Subd. 6. **Allocation.** ~~The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of~~

~~government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund (a) In all cases prosecuted in district court by an attorney for a municipality or other subdivision of government within the county for violations of state statute, or of an ordinance; or charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected shall be forwarded to the commissioner of finance and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, 484.841, 484.85, or other law, on or before the last day of each month, the commissioner of finance shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:~~

(1) 100 percent of all fines or penalties for parking violations for which complaints and warrants have not been issued to the treasurer of the city or town in which the offense was committed; and

(2) two-thirds of all other fines to the treasurer of the city or town in which the offense was committed and one-third deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the court administrator shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3;

(2) a city has a population of 600 or less and has given the duty to prosecute cases to the county attorney under section 484.87; or

(3) the attorney general provides assistance to the county attorney as permitted by law.

(c) The court administrator shall provide the commissioner of finance with the name of the city, town, or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 33. Minnesota Statutes 2008, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount,

identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~five years~~ after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 549.09, subdivision 1, is amended to read:

Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.



(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in paragraph (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein. The action must be commenced within two years of a written notice of claim for interest to begin to accrue from the time of the notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or report only if the amount of its offer is closer to the judgment or award than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (2), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

- (1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;
- (2) judgments or awards for future damages;
- (3) punitive damages, fines, or other damages that are noncompensatory in nature;
- (4) judgments or awards not in excess of the amount specified in section 491A.01; and
- (5) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c)(1) For a judgment or award of \$50,000 or less, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

(2) For a judgment or award over \$50,000, the interest rate shall be ten percent per year.

(3) When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to judgments and awards finally entered on or after that date.

Sec. 36. Minnesota Statutes 2008, section 550.011, is amended to read:

**550.011 JUDGMENT DEBTOR DISCLOSURE.**

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 609.035, subdivision 2, is amended to read:

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;
- (2) section 169A.20, subdivision 2, test refusal;
- (3) section 169.791, failure to provide proof of insurance;

- (4) section 169.797, failure to provide vehicle insurance;
- (5) section 171.09, violation of condition of restricted license;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license; and
- (8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

Sec. 38. Minnesota Statutes 2008, section 609.10, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment ~~or to imprisonment for a fixed term of years if the fine is not paid or as an intermediate sanction on a stayed sentence;~~ or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 39. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule

~~established by the Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise according to section 609.1315.~~

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

~~The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 40. **[609.104] FINE AND SURCHARGE COLLECTION.**

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after the effective date of this section.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine, ~~or to imprisonment for a specified term if the fine is not paid~~ without imprisonment or as an intermediate sanction on a stayed sentence; or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 609.131, subdivision 3, is amended to read:

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure, or was treated as a petty misdemeanor by inclusion on the uniform fine schedule, may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to violations committed on or after that date.

Sec. 43. **[609.1315] UNIFORM FINE SCHEDULE.**

Subdivision 1. **Establishment and effective date.** The Judicial Council shall establish a uniform fine schedule in consultation with affected state and local agencies. The uniform fine schedule may include petty misdemeanor and misdemeanor offenses, but shall not include targeted misdemeanors as defined in section 299C.10. The uniform fine schedule shall set a fine that may be paid for each offense in lieu of a court appearance. The uniform fine schedule and any modifications shall be submitted to the legislature for approval by January 1 of each year and shall become effective on July 1 of that year unless the legislature, by law, provides otherwise.

Subd. 2. **Effect on misdemeanor offenses.** Any misdemeanors included on the uniform fine schedule shall be treated as petty misdemeanors, unless on the third or subsequent offense the charge is brought by a formal complaint or, for offenses committed under chapter 169, the violation was committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property. Nothing in this subdivision limits the authority of a peace officer to make an arrest for offenses included on the uniform fine schedule. Nothing in this section limits the operation of section 169.89, subdivision 1. This subdivision expires on July 1, 2011.

Subd. 3. **Notice.** A defendant must be advised in writing that payment of the fine for an offense on the uniform fine schedule constitutes a plea of guilty, waiver of the right to trial, and waiver of the right to counsel.

**EFFECTIVE DATE.** Subdivision 2 is effective July 1, 2009, and applies to acts committed on or after that date.

Sec. 44. Minnesota Statutes 2008, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 45. Minnesota Statutes 2008, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **Failure to pay restitution ~~or fine~~.** If the court orders payment of restitution ~~or a fine~~ as a condition of probation and if the defendant fails to pay the restitution ~~or a fine~~ in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ~~or fine~~ ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 46. Minnesota Statutes 2008, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution ~~or a fine~~ in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution ~~or fine~~ the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution ~~or a fine~~ may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution ~~or fine~~ that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 47. Minnesota Statutes 2008, section 611.17, is amended to read:

**611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and

(4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a ~~\$28~~ \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 48. Minnesota Statutes 2008, section 631.48, is amended to read:

**631.48 SENTENCE; COSTS OF PROSECUTION.**

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or



by execution against property. When collected, the disbursements ~~must be paid into the treasury of the county of conviction, but~~ of ordered prosecution costs shall be paid to the municipality or subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the case. This payment may not interfere with the payment of officers', witnesses', or jurors' fees.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 49. **PUBLIC DEFENDER FEE; PUBLIC DEFENDER FEE ACCOUNT.**

Subdivision 1. **Creation of fee.** The state court administrator, through the lawyer registration office, may assess a public defender fee on each licensed attorney in the state. The fee must be equal to or greater than the civil legal services fee that licensed attorneys are required to pay pursuant to the rules of the Supreme Court on lawyer registration.

Subd. 2. **Creation of account.** A public defender fee account is created in the special revenue fund. The public defender fee is deposited in the public defender fee account in the special revenue fund. The amounts in the account are appropriated to the Board of Public Defense.

Subd. 3. **Purpose of account.** The purpose of the public defender fee account is to provide funding for the Board of Public Defense.

Subd. 4. **Prohibition on nonpublic defender transfers from account.** Notwithstanding any law to the contrary, money in the public defender fee account shall be appropriated solely for the purpose of funding the Board of Public Defense.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 50. **REPEALER.**

Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 484.90, subdivisions 1, 2, and 3; 487.08, subdivisions 1, 2, 3, and 5; and 609.135, subdivision 8, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

ARTICLE 3

PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2008, section 152.025, subdivision 3, is amended to read:

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000. Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2008, section 171.29, subdivision 2, is amended to read:

Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An individual whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

(1) Twenty percent must be credited to the driver services operating account in the special revenue fund as specified in section 299A.705.

(2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account ~~may be~~ is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(3) the development and support of programs and services to prevent traumatic brain injury;

(4) the establishment of education programs for persons with traumatic brain injury; and

(5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

(e) When these fees are collected by a licensing agent, appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fees and surcharge must be deposited in an approved depository as directed under section 171.061, subdivision 4.

(f) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52 or 169A.54 and who the court certifies as being financially eligible for a public defender under section 611.17, may choose to pay 50 percent and an additional \$25 of the total amount of the surcharge and 50 percent of the fee required under paragraph (b) to reinstate the person's driver's license, provided the person meets all other requirements of reinstatement. If a person chooses to pay 50 percent of the total and an additional \$25, the driver's license must expire after two years. The person must pay an additional 50 percent less \$25 of the total to extend the license for an additional two years, provided the person is otherwise still eligible for the license. After this final payment of the surcharge and fee, the license may be renewed on a standard schedule, as provided under section 171.27. A handling charge may be imposed for each installment payment. Revenue from the handling charge is credited to the driver services operating account in the special revenue fund and is appropriated to the commissioner.

(g) Any person making installment payments under paragraph (f), whose driver's license subsequently expires, or is canceled, revoked, or suspended before payment of 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial reinstatement before the driver's license is subsequently reinstated. Upon payment of the outstanding balance due for the initial reinstatement, the person may pay any new surcharge and fee imposed under paragraph (b) in installment payments as provided under paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other year thereafter. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;
- (3) department annual statistics as outlined in the departmental policies and procedures; and
- (4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). The recidivism analysis must: (1) assess education programs, vocational programs, treatment programs, including mental health programs, industry, and employment; and (2) assess statewide re-entry policies and funding, including postrelease treatment, education, training, and supervision. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

(c) By August 31 of each odd-numbered year, the commissioner must present to the legislature a report that lists and describes the performance measures and targets the department will include in the biennial performance report. The measures and targets must include a budget target for the next two years and a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the data and information identified in paragraphs (a) and (b) regarding per diem, statistics, inmate programming, and recidivism, and the following:

- (1) average statutory per diem for adult offenders, female offenders, and juvenile offenders;
- (2) community corrections;
- (3) staffing and salaries for both department divisions and institutions;
- (4) the use of private and local institutions to house persons committed to the commissioner;
- (5) the cost of inmate health and dental care;
- (6) implementation and use of corrections best practices; and
- (7) the challenge incarceration program.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 244.055, subdivision 2, is amended to read:

Subd. 2. **Conditional release of certain nonviolent controlled substance offenders.** An offender who has been committed to the commissioner's custody may petition the commissioner for conditional release from prison before the offender's scheduled supervised release date or target release date if:

- (1) the offender is serving a sentence for violating section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;
- (2) the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit;
- (3) the offender has served at least 36 months or one-half of the offender's term of imprisonment, whichever is less;
- (4) the offender successfully completed a chemical dependency treatment program of the type described in this section while in prison;
- (5) the offender has not previously been conditionally released under this section; ~~and~~
- (6) the offender has not within the past ten years been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 other than the current conviction for the controlled substance offense; and
- (7) the offender has access upon release to aftercare, community-based chemical dependency treatment, and housing.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 299A.01, subdivision 1a, is amended to read:

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

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and
- ~~(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and~~
- ~~(7)~~ (6) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 7. Minnesota Statutes 2008, section 299A.01, is amended by adding a subdivision to read:

Subd. 1c. **Performance report; performance measures and targets.** (a) The commissioner, as part of the department's mission and within the department's resources, shall report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to paragraph (b) and section 16A.10, subdivision 1. The purpose of the report is to determine the extent to which each program is accomplishing the program's mission, goals, and objectives.

The report may address:

- (1) factors that limited or delayed achievement of objectives or goals;
- (2) resources used or saved and efficiencies achieved in reaching program objectives and goals;
- (3) information from customers and partners of the agency regarding the quality of service and effectiveness of the agency and the agency's programs;
- (4) recommendations on elimination of unnecessary or obsolete mandated reports; and
- (5) major cases, events, or circumstances that required an agency response.

(b) By June 30 of each odd-numbered year, the commissioner must present to the legislature a report that states the mission, goals, and objectives of each program and lists and describes the performance measures and targets the department will include in the performance report required under paragraph (a). The report must include information on how program goals and objectives were created and who participated in formulating them. The measures and targets must include a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the following:

(1) staffing and salaries for divisions within the agency;

(2) caseloads and responsibilities of Bureau of Criminal Apprehension agents;

(3) development and funding of the Allied Radio Matrix for Emergency Response (ARMER);

(4) grant programs administered under the Office of Justice Programs and Homeland Security and Emergency Management;

(5) receipt and expenditure of federal grant funds;

(6) expenditure of the fire safety insurance surcharge;

(7) emergency preparedness;

(8) crime lab operations; and

(9) assistance provided to crime victims.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **Emergency telecommunications service fee; account.** (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, to offset administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program, to make distributions provided for in section 403.113, ~~and~~ to offset the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones, and for any other purpose the commissioner determines is related to the effective operation of the emergency telecommunications system in the state.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than 65 cents a month until June 30, 2008, not less than eight cents nor more than 75 cents a month until June 30, 2009, not less than eight cents nor more than 85 cents a month until June 30, 2010, and not less than eight cents nor more than 95 cents a month on or after July 1, 2010, for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the

approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

(h) The revisions made to paragraph (a) in 2009 expire on June 30, 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 609.105, subdivision 1, is amended to read:

Subdivision 1. ~~Sentence to less than 180 days, more than one year. In A felony sentence to imprisonment; when the remaining term of imprisonment is for 180 days or less, the defendant more than one year shall be committed~~ commit the defendant to the custody of the commissioner of corrections ~~and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to offenders sentenced on or after that date.

Sec. 10. **COUNTY-BASED REVOCATION CENTER PILOT PROJECT; REPORT.**

(a) Dodge, Fillmore, Olmsted, and Ramsey Counties and Tri-county and Hennepin Community Corrections, and any other county or community corrections department that requests to participate shall develop a proposal for a pilot project for a secure residential center and supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

- (2) medical care;
- (3) the transport of offenders to and from any facility;
- (4) detailed current and future costs and per diems associated with the facility;
- (5) admission and release procedures of the proposed facility;
- (6) intended outcomes of the pilot project; and
- (7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, the counties of Dodge, Fillmore, Olmsted, and Ramsey and Tri-county and Hennepin County Community Corrections shall report the pilot project proposal to the chairs and ranking minority members of the legislative committees having jurisdiction over public safety policy and finance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. **REPEALER.**

Minnesota Statutes 2008, section 609.105, subdivisions 1a and 1b, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to public safety; clarifying elements and penalties of certain crimes; requiring reports; increasing fees; providing for a uniform fine schedule; authorizing collection of fines and surcharges; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; appropriating money for the courts, public defenders, public safety, corrections, and other criminal justice agencies; amending Minnesota Statutes 2008, sections 2.722, subdivisions 4, 4a; 2.724, subdivisions 2, 3; 86B.705, subdivision 2; 134A.09, subdivision 2a; 134A.10, subdivision 3; 152.025, subdivisions 1, 2, 3; 152.0262, subdivision 1; 169A.20, subdivision 1, by adding subdivisions; 169A.25, subdivision 1; 169A.26, subdivision 1; 169A.27, subdivision 1; 169A.28, subdivision 2; 169A.284; 169A.46, subdivision 1; 169A.54, subdivision 1; 171.29, subdivision 2; 241.016, subdivision 1; 244.055, subdivisions 2, 11; 299A.01, subdivision 1a, by adding a subdivision; 299D.03, subdivision 5; 357.021, subdivisions 2, 6, 7; 357.022; 357.08; 364.08; 375.14; 403.11, subdivision 1; 480.15, by adding a subdivision; 484.85; 484.90, subdivision 6; 491A.02, subdivision 9; 525.091, subdivision 1; 549.09, subdivision 1; 550.011; 609.035, subdivision 2; 609.10, subdivision 1; 609.101, subdivision 4; 609.105, subdivision 1; 609.125, subdivision 1; 609.131, subdivision 3; 609.135, subdivisions 1, 1a, 2; 611.17; 631.48; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 484.90, subdivisions 1, 2, 3; 487.08, subdivisions 1, 2, 3, 5; 609.105, subdivisions 1a, 1b; 609.135, subdivision 8."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

#### MINORITY REPORT

April 14, 2009

We, the undersigned, being a minority of the Committee on Finance, recommend that H. F. No. 1657 do pass with the following amendments:

Delete everything after the enacting clause and insert:



"ARTICLE 1  
APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<b><u>2010</u></b>	<b><u>2011</u></b>	<b><u>Total</u></b>
<u>General</u>	<u>\$895,730,000</u>	<u>\$886,822,000</u>	<u>\$1,782,552,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>	<u>38,000,000</u>
<u>State Government Special Revenue</u>	<u>66,573,000</u>	<u>70,336,000</u>	<u>136,909,000</u>
<u>Environmental Fund</u>	<u>69,000</u>	<u>69,000</u>	<u>138,000</u>
<u>Special Revenue Fund</u>	<u>14,540,000</u>	<u>14,540,000</u>	<u>29,080,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>	<u>3,882,000</u>
<b><u>Total</u></b>	<b><u>\$997,853,000</u></b>	<b><u>\$992,708,000</u></b>	<b><u>\$1,990,561,000</u></b>

Sec. 2. **PUBLIC SAFETY APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2010</u></b>	<b><u>2011</u></b>

Sec. 3. **SUPREME COURT**

Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$41,392,000</u></b>	<b><u>\$35,592,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <b><u>Supreme Court Operations</u></b>	<b><u>31,692,000</u></b>	<b><u>30,892,000</u></b>
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(a) **Contingent Account.** \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

(b) **Criminal Justice Forum.** The chief justice is requested to continue the criminal justice forum to evaluate and examine criminal justice efficiencies and costs savings, and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(c) **Federal Stimulus Funds.** The Supreme Court is encouraged to apply for all available grants for federal stimulus funds to: (1) continue drug court programs that lose state funding; and (2) make technological improvements within the judicial system.

(d) **Judicial and Referee Vacancies.** The Supreme Court shall not certify a judicial or referee vacancy under Minnesota Statutes, section 2.722, until it has examined alternative options, such as temporarily suspending certification of the vacant position or assigning a retired judge to temporarily fill the position. Thirty days prior to certifying any judicial or referee vacancy to the governor, the Supreme Court shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety and judiciary policy and finance a report with a detailed explanation of the alternatives that were examined, why those alternatives were rejected, and why certification of the position is necessary for effective judicial administration and adequate access to the courts.

Subd. 3. **Civil Legal Services**

9,700,000

4,700,000

**Legal Services to Low-Income Clients in Family Law Matters.** Of this appropriation, \$877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 4. **COURT OF APPEALS**

**\$10,270,000**

**\$10,170,000**

Sec. 5. **TRIAL COURTS**

**\$250,347,000**

**\$247,800,000**

Sec. 6. **TAX COURT**

**\$800,000**

**\$800,000**

Sec. 7. **UNIFORM LAWS COMMISSION**

**\$51,000**

**\$50,000**

Sec. 8. **BOARD ON JUDICIAL STANDARDS**

**\$446,000**

**\$446,000**

The base budget for the Board on Judicial Standards shall be \$321,000 in fiscal year 2012 and \$321,000 in fiscal year 2013.

Sec. 9. **BOARD OF PUBLIC DEFENSE** **\$66,278,000** **\$63,928,000**

Sec. 10. **PUBLIC SAFETY**

Subdivision 1. **Total Appropriation** **\$146,822,000** **\$151,685,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	68,732,000	69,832,000
<u>Special Revenue</u>	9,507,000	9,507,000
<u>State Government Special Revenue</u>	66,573,000	70,336,000
<u>Environmental</u>	69,000	69,000
<u>Trunk Highway</u>	1,941,000	1,941,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars in the seven-county metropolitan area by 20 percent.

Subd. 2. **Emergency Management** **2,583,000** **2,583,000**

Appropriations by Fund

<u>General</u>	1,910,000	1,910,000
<u>Special Revenue</u>	604,000	604,000
<u>Environmental</u>	69,000	69,000

**Hazmat and Chemical Assessment Teams.** \$604,000 each year is appropriated from the fire safety account in the special revenue fund. These amounts must be used to fund the hazardous materials and chemical assessment teams.

Subd. 3. **Criminal Apprehension** **43,037,000** **42,137,000**

Appropriations by Fund

<u>General</u>	41,089,000	40,189,000
<u>State Government Special Revenue</u>	7,000	7,000
<u>Trunk Highway</u>	1,941,000	1,941,000

(a) **Forensic Scientists.** When formulating the budget and the need for additional scientists for the state's crime labs, the commissioner, in consultation with the superintendent of the Bureau of Criminal Apprehension, must consider the number and capacity of scientists employed in labs operated by local units of government.

(b) **DWI Lab Analysis; Trunk Highway Fund.** Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$1,941,000 each year is appropriated from the trunk highway fund for laboratory analysis related to driving while impaired cases.

<b><u>Subd. 4. Fire Marshal</u></b>	<u>8,000,000</u>	<u>8,000,000</u>
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This appropriation is from the fire safety account in the special revenue fund.

Of this amount, \$5,732,000 each year is for activities under Minnesota Statutes, section 299F.012, and \$2,268,000 each year is for transfer to the general fund under Minnesota Statutes, section 2971.06, subdivision 3.

<b><u>Subd. 5. Alcohol and Gambling Enforcement</u></b>	<u>2,438,000</u>	<u>2,438,000</u>
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Appropriations by Fund

<u>General</u>	<u>1,535,000</u>	<u>1,535,000</u>	
<u>Special Revenue</u>	<u>903,000</u>	<u>903,000</u>	

This appropriation is from the alcohol enforcement account in the special revenue fund. Of this appropriation, \$750,000 each year shall be transferred to the general fund. The transfer amount for fiscal year 2012 and fiscal year 2013 shall be \$500,000 per year.

<b><u>Subd. 6. Office of Justice Programs</u></b>	<u>24,294,000</u>	<u>26,294,000</u>
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Appropriations by Fund

<u>General</u>	<u>24,198,000</u>	<u>26,198,000</u>	
<u>State Government</u>			
<u>Special Revenue</u>	<u>96,000</u>	<u>96,000</u>	

(a) **Federal Stimulus Funds; Report.** By June 1, 2009, the Office of Justice Programs shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a detailed plan outlining the competitive grant process to be used to administer the federal stimulus funds. The plan must describe: (1) the administrative process in accepting and reviewing applications, (2) the criteria used in awarding grants, and (3) program reporting requirements.

The Office of Justice Programs must consider awarding grants for federal stimulus funds for the following activities and programs:

(i) trafficking victim programs, including legal advocacy clinics, training programs, public awareness initiatives, and victim services hotlines;

(ii) nonprofit organizations dedicated to providing immediate and long-term emotional support and practical help for families and friends of persons who have died traumatically;

(iii) organizations that provide mentoring grants for children of incarcerated parents;

(iv) youth intervention programs, as defined under Minnesota Statutes, section 299A.73, with an emphasis on those programs that provide early intervention youth services to children in their communities;

(v) programs that seek to develop and increase juvenile detention alternatives;

(vi) re-entry programs for offenders;

(vii) restorative justice programs, as defined in Minnesota Statutes, section 611A.775, except that a program that receives federal funds shall not use the funds for cases involving domestic assault; and

(viii) judicial branch efficiency programs, including e-citation and fine management and collection program improvements.

By October 1, 2009, the Office of Justice Programs must submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a list of all the grants awarded by the Office of Justice Programs using federal stimulus funds, including the name of the grantee, the amount awarded, the funded activities or programs, and the length of the grant.

For purposes of this section, "federal stimulus funds" means funding provided to the state under the American Recovery and Reinvestment Act of 2009.

(b) **Crime Victim Programs.** For the biennium ending June 30, 2011, funding for the following programs must not be reduced by more than one percent from the level of state funding provided for the biennium ending June 30, 2009: (1) battered women's shelters; and (2) sexual assault victim programs.

Subd. 7. **Emergency Communication Networks**

66,470,000

70,233,000

This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

(a) **Public Safety Answering Points.** \$13,664,000 each year is to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2.

(b) **Medical Resource Communication Centers.** \$683,000 each year is for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

(c) **ARMER Debt Service.** \$17,557,000 the first year and \$23,261,000 the second year are to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275.

Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds were appropriated by Laws 2005, chapter 136, article 1, section 9, subdivision 8, or Laws 2007, chapter 54, article 1, section 10, subdivision 8.

(d) **Metropolitan Council Debt Service.** \$1,410,000 each year is to the commissioner of finance for payment to the Metropolitan Council for debt service on bonds issued under Minnesota Statutes, section 403.27.

(e) **ARMER State Backbone Operating Costs.** \$5,060,000 each year is to the commissioner of transportation for costs of maintaining and operating the first and third phases of the statewide radio system backbone.

(f) **ARMER Improvements.** \$1,000,000 each year is for the Statewide Radio Board for costs of design, construction, maintenance of, and improvements to those elements of the statewide public safety radio and communication system that support mutual aid communications and emergency medical services or provide enhancement of public safety communication interoperability.

(g) **Next Generation 911.** \$3,431,000 in fiscal year 2010 and \$6,490,000 in fiscal year 2011 is to replace the current system with the Next Generation Internet Protocol (IP) based network. The base level of funding for fiscal year 2012 shall be \$2,965,000.

(h) **Emergency Communication System.** \$5,000,000 the first year is for grants to local units of government to assist with the transition to the ARMER system. This appropriation is available until December 31, 2012.

Sec. 11. **PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)**

**\$4,143,000**

**\$4,143,000**

(a) **Excess Amounts Transferred.** This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,143,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,143,000 must be transferred and credited to the general fund.

(b) **Peace Officer Training Reimbursements.** \$3,009,000 each year is for reimbursements to local governments for peace officer training costs.

Sec. 12. **PRIVATE DETECTIVE BOARD**

**\$125,000**

**\$125,000**

Sec. 13. **HUMAN RIGHTS**

**\$3,226,000**

**\$3,226,000**

Sec. 14. **DEPARTMENT OF CORRECTIONS**

Subdivision 1. **Total Appropriation**

**\$473,394,000**

**\$474,194,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	453,504,000	454,304,000
<u>Special Revenue</u>	890,000	890,000
<u>Federal</u>	19,000,000	19,000,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars by 20 percent.

Subd. 2. **Correctional Institutions**

**334,991,000**

**340,098,000**

Appropriations by Fund

<u>General</u>	315,411,000	320,518,000
<u>Special Revenue</u>	580,000	580,000
<u>Federal</u>	19,000,000	19,000,000

\$19,000,000 each year is from the fiscal stabilization account in the American Recovery and Reinvestment Act of 2009. This is a onetime appropriation.

The general fund base for this program shall be \$337,621,000 in fiscal year 2012 and \$341,998,000 in fiscal year 2013.

(a) **Treatment Alternatives; Report.** By December 15, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance concerning alternative chemical dependency treatment opportunities. The report must identify alternatives that represent best practices in chemical dependency treatment of offenders. The report must contain suggestions for reducing the length of time between offender commitment to the custody of the commissioner and graduation from chemical dependency treatment. To the extent possible, the report shall identify options that will (1) reduce the cost of treatment; (2) expand the number of treatment beds; (3) improve treatment outcomes; and (4) lower the rate of substance abuse relapse and criminal recidivism.

(b) **Challenge Incarceration; Maximum Occupancy.** The commissioner shall work to fill all available challenge incarceration beds for both male and female offenders. If the commissioner fails to fill at least 90 percent of the available challenge incarceration beds by December 1, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by January 15, 2010, explaining what steps the commissioner has taken to fill the beds and why those steps failed to reach the goal established by the legislature.

(c) **Performance Measures; Per Diem Reduction; Report to the Legislature.** The commissioner of corrections must reduce the fiscal year 2008 average adult facility per diem of \$89.77 by one percent. The base is cut by \$2,850,000 in the first year and \$2,850,000 in the second year to reflect a one percent reduction in the projected adult facility per diem.

In reducing the projected adult facility per diem, the commissioner must consider the following:

(1) cooperating with the state of Wisconsin to obtain economies of scale;

(2) increasing the bed capacity of the challenge incarceration program;

(3) increasing the number of nonviolent drug offenders who are granted conditional release under Minnesota Statutes, section 244.055;

(4) increasing the use of compassionate release or less costly detention alternatives for elderly and infirm offenders;



(5) implementing corrections best practices; and

(6) implementing cost-saving measures used by other states and the federal government.

The commissioner must not eliminate correctional officer positions or implement any other measure that will jeopardize public safety to achieve the mandated cost savings.

If the commissioner fails to reduce the per diem by one percent, the commissioner must:

(i) reduce the funding for operations support by the amount of unrealized savings; and

(ii) submit a report by February 15, 2010, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance that contains descriptions of what efforts the commissioner made to reduce the per diem, explanations for why those steps failed to reduce the per diem by one percent, proposed legislative options that would assist the commissioner in reducing the adult facility per diem, and descriptions of the specific actions the commissioner took to reduce funding in operations support.

If the commissioner reduces the per diem by more than one percent, the commissioner must use the savings to provide treatment to offenders.

(d) **Drug Court Bed Savings.** The commissioner must consider the bed impact savings of drug courts in formulating its prison bed projections.

Subd. 3. **Community Services**

115,244,000

112,287,000

Appropriations by Fund

General                      115,144,000                      112,187,000

Special Revenue              100,000                              100,000

(a) **Short-Term Offenders.** \$1,607,000 in the first year is for costs associated with the housing and care of short-term offenders sentenced prior to June 30, 2009, and housed in local jails. The commissioner may use up to ten percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. All funds not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be

distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed the fiscal year 2009 per diem. All funds remaining after reimbursements are made shall be transferred to the department's institution base budget to offset the costs of housing short-term offenders who are sentenced on or after July 1, 2009, and incarcerated in state correctional facilities. Short-term offenders sentenced before July 1, 2009, may be housed in a state correctional facility at the discretion of the commissioner.

This does not preclude the commissioner from contracting with local jails to house offenders committed to the custody of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

(b) **Federal Grants.** The commissioner must apply for all available grants for federal funds under the American Recovery and Reinvestment Act of 2009 and the Second Chance Act that the department is eligible to receive to continue and expand re-entry and restorative justice programs.

Prior to accepting a federal grant, the commissioner must consider all ongoing costs to the state after the grant funds are exhausted.

<u>Subd. 4. <b>Operations Support</b></u>		<u>23,159,000</u>	<u>21,809,000</u>
	<u>Appropriations by Fund</u>		
<u>General</u>	<u>22,949,000</u>	<u>21,599,000</u>	
<u>Special Revenue</u>	<u>210,000</u>	<u>210,000</u>	

The general fund base for this program shall be \$20,949,000 in fiscal year 2012 and \$20,949,000 in fiscal year 2013.

<u>Sec. 15. <b>SENTENCING GUIDELINES</b></u>	<u>\$559,000</u>	<u>\$549,000</u>
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ARTICLE 2

COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2008, section 2.722, subdivision 4, is amended to read:

Subd. 4. **Determination of a judicial vacancy.** (a) When a judge of the district court dies, resigns, retires, or is removed from office, the Supreme Court, in consultation with judges and attorneys in the affected district, shall determine ~~within 90 days of~~ after receiving notice of a vacancy from the governor whether the vacant office is necessary for effective judicial administration or is necessary for adequate access to the courts. In determining

whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. The Supreme Court shall certify any vacancy to the governor, who shall fill it in the manner provided by law.

(b) If a judge of district court fails to timely file an affidavit of candidacy and filing fee or petition in lieu of a fee, the official with whom the affidavits of candidacy are required to be filed shall notify the Supreme Court that the incumbent judge is not seeking reelection. Within five days of receipt of the notice, the Supreme Court shall determine whether the judicial position is necessary for effective judicial administration or adequate access to the courts and notify the official responsible for certifying the election results of its determination. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where the need for additional judgeships exists. If the position is abolished or transferred, the election may not be held. If the position is transferred, the court shall also notify the governor of the transfer. Upon transfer, the position is vacant and the governor shall fill it in the manner provided by law. An order abolishing or transferring a position is effective the first Monday in the next January.

Sec. 2. Minnesota Statutes 2008, section 2.722, subdivision 4a, is amended to read:

Subd. 4a. **Referee vacancy; conversion to judgeship.** When a referee of the district court dies, resigns, retires, or is voluntarily removed from the position, the chief judge of the district shall notify the Supreme Court and may petition to request that the position be converted to a judgeship. The Supreme Court shall determine ~~within 90 days of the petition~~ whether to order the position abolished or convert the position to a judgeship in the affected or another judicial district. The Supreme Court shall certify any judicial vacancy to the governor, who shall fill it in the manner provided by law. The conversion of a referee position to a judgeship under this subdivision shall not reduce the total number of judges and referees hearing cases in the family and juvenile courts.

Sec. 3. Minnesota Statutes 2008, section 2.724, subdivision 2, is amended to read:

Subd. 2. **Procedure.** To promote and secure more efficient administration of justice, the chief justice of the Supreme Court of the state shall supervise and coordinate the work of the courts of the state. The Supreme Court may provide by rule that the chief justice not be required to write opinions as a member of the Supreme Court. Its rules may further provide for it to hear and consider cases in divisions. It may by rule assign temporarily any retired justice of the Supreme Court or one judge of the Court of Appeals or district court judge at a time to act as a justice of the Supreme Court or any number of justices or retired justices of the Supreme Court to act as judges of the Court of Appeals. Upon the assignment of a Court of Appeals judge or a district court judge to act as a justice of the Supreme Court, a judge previously acting as a justice may complete unfinished duties of that position. Any number of justices may disqualify themselves from hearing and considering a case, in which event the Supreme Court may assign temporarily a retired justice of the Supreme Court, a Court of Appeals judge, or a district court judge to hear and consider the case in place of each disqualified justice. ~~A retired justice who is acting as a justice of the Supreme Court or judge of the Court of Appeals under this section shall receive, in addition to retirement pay, out of the general fund of the state, an amount to make the retired justice's total compensation equal to the same salary as a justice or judge of the court on which the justice is acting.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 2.724, subdivision 3, is amended to read:

Subd. 3. **Retired justices and judges.** (a) The chief justice of the Supreme Court may assign a retired justice of the Supreme Court to act as a justice of the Supreme Court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the Supreme Court. The chief justice of the Supreme Court shall determine the pay and expenses to be received by a justice or judge acting pursuant to this paragraph.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the Supreme Court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 86B.705, subdivision 2, is amended to read:

Subd. 2. **Fines and bail money.** (a) All fines, installment payments, and forfeited bail money collected from persons convicted of violations of this chapter or rules adopted thereunder, or of a violation of section 169A.20 involving a motorboat, shall be ~~paid to the county treasurer of the county where the violation occurred by the court administrator or other person collecting the money within 15 days after the last day of the month the money was collected~~ deposited in the state treasury.

(b) One-half of the receipts shall be credited to the general revenue fund ~~of the county.~~ The other one-half of the receipts shall be transmitted ~~by the county treasurer~~ to the commissioner of natural resources ~~to be deposited in the state treasury~~ and credited to the water recreation account for the purpose of boat and water safety.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 134A.09, subdivision 2a, is amended to read:

Subd. 2a. **Petty misdemeanor cases and criminal convictions; fee assessment.** In Hennepin County and Ramsey County, the district court administrator or a designee may, upon the recommendation of the board of trustees and by standing order of the judges of the district court, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of a statute or municipal ordinance, a county law library fee. This fee may be collected in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 134A.10, subdivision 3, is amended to read:

Subd. 3. **Petty misdemeanor cases and criminal convictions; fee assessment.** The judge of district court may, upon the recommendation of the board of trustees and by standing order, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of any statute or municipal ordinance, in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty a county law library fee. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case. The item of costs or disbursements may not be assessed for any offense committed prior to the establishment of the county law library.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 152.025, subdivision 1, is amended to read:

Subdivision 1. **Sale crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 152.0262, subdivision 1, is amended to read:

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia;
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;

- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime; motor vehicles.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

- (1) ~~when~~ the person is under the influence of alcohol;
- (2) ~~when~~ the person is under the influence of a controlled substance;
- (3) ~~when~~ the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;
- (4) ~~when~~ the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), ~~and~~ to (3);
- (5) ~~when~~ the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;
- (6) ~~when~~ the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or
- (7) ~~when~~ the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1a. **Driving while impaired crime; motorboat in operation.** It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

- (1) the person is under the influence of alcohol;
- (2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motorboat;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motorboat is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 13. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

**Subd. 1b. Driving while impaired crime; snowmobile and all-terrain vehicle.** It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the snowmobile or all-terrain vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

**Subd. 1c. Driving while impaired crime; off-highway motorcycle and off-road vehicle.** It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the off-highway motorcycle or off-road vehicle;



(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the off-highway motorcycle or off-road vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 15. Minnesota Statutes 2008, section 169A.25, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 16. Minnesota Statutes 2008, section 169A.26, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 17. Minnesota Statutes 2008, section 169A.27, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of fourth-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 169A.28, subdivision 2, is amended to read:

Subd. 2. **Permissive consecutive sentences; multiple offenses.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c).

(b) When a person is being sentenced for a violation of section 171.09 (violation of condition of restricted license), 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135 (stay of imposition or execution of sentence).

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);
- (2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);
- (3) section 169.791;
- (4) section 169.797;
- (5) section 171.09 (violation of condition of restricted license);
- (6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);
- (7) section 171.24; and
- (8) section 171.30.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 169A.284, is amended to read:

**169A.284 CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.**

Subdivision 1. **When required.** (a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall order the person to pay the cost of the assessment directly to the entity conducting the assessment or providing the assessment services in an amount determined by the entity conducting or providing the service and shall impose a chemical dependency assessment charge of ~~\$125~~ \$25. The court may waive the \$25 assessment charge, but may not waive the cost for the assessment paid directly to the entity conducting the assessment or providing assessment services. A person shall pay an additional surcharge of \$5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. **Distribution of money.** ~~The county court administrator shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the commissioner of finance to be deposited in the state treasury and credited to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 169A.46, subdivision 1, is amended to read:

Subdivision 1. **Impairment occurred after driving ceased.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

- (1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;
- (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;
- (3) for an offense occurring within ten years of a qualified prior impaired driving incident:
  - (i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or
  - (ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;
- (4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or
- (5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 299D.03, subdivision 5, is amended to read:

Subd. 5. **Traffic fines and forfeited bail money.** (a) All fines and forfeited bail money, ~~from traffic and motor vehicle law violations,~~ collected from persons apprehended or arrested by officers of the State Patrol, shall be ~~paid~~ transmitted by the person or officer collecting the fines, forfeited bail money, or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the ~~county treasurer of the county where the violation occurred.~~ commissioner of finance. ~~Except where a different disposition is required in this paragraph, paragraph (b), section 387.213, or otherwise provided by law, three-eighths of these receipts shall be credited to the general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three eighths share must be transmitted to the commissioner of finance for deposit deposited in the state treasury and credited to the state general fund. The other five-eighths of these receipts shall be transmitted by that officer to the commissioner of finance and must be deposited in the state treasury and~~ credited as follows: (1) the first \$600,000 in each fiscal year must be credited to the Minnesota grade crossing safety account in the special revenue fund, and (2) remaining receipts must be credited to the state trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be ~~transmitted to the commissioner of finance as provided in this subdivision.~~ deposited in the state treasury and credited to the Minnesota grade crossing safety account or the state trunk highway fund as provided in this paragraph. When section 387.213 also is applicable to the fine, section 387.213 shall be applied before this paragraph is applied. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be ~~paid~~ transmitted by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the ~~county treasurer of the county where the violation occurred~~ commissioner of finance. Five-eighths of these receipts shall be ~~transmitted by that officer to the commissioner of finance and shall be~~ deposited in the state treasury and credited to the state highway user tax distribution fund. Three-eighths of these receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, ~~except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three eighths share must be transmitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$4 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the ~~commissioner of finance~~ court administrator or other entity collecting the surcharge imposed by the court.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 364.08, is amended to read:

**364.08 PRACTICE OF LAW; EXCEPTION.**

This chapter shall not apply to the practice of law or judicial branch employment; but nothing in this section shall be construed to preclude the Supreme Court, in its discretion, from adopting the policies set forth in this chapter.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 375.14, is amended to read:

**375.14 OFFICES AND SUPPLIES FURNISHED FOR COUNTY OFFICERS.**

The county board shall provide offices at the county seat for the auditor, treasurer, county recorder, sheriff, court administrator of the district court, and an office for the county engineer at a site determined by the county board, with suitable furniture and safes and vaults for the security and preservation of the books and papers of the offices, and provide heating, lighting, and maintenance of the offices. The board shall furnish all county officers with all books, stationery, letterheads, envelopes, postage, telephone service, office equipment, electronic technology, and supplies necessary to the discharge of their respective duties ~~and make like provision for the judges of the district court as necessary to the discharge of their duties within the county or concerning matters arising in it.~~ The board is not required to furnish any county officer with professional or technical books or instruments except when the board deems them directly necessary to the discharge of official duties as part of the permanent equipment of the office.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 480.15, is amended by adding a subdivision to read:

Subd. 10c. **Uniform collections policies and procedures for courts.** (a) Notwithstanding chapter 16D, the state court administrator under the direction of the Judicial Council may promulgate uniform collections policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts. The court collection process and procedures are not subject to section 16A.125 or chapter 16D.

(b) Court debt means an amount owed to the state directly or through the judicial branch on account of a fee, duty, rent, service, overpayment, fine, assessment, surcharge, court cost, penalty, restitution, damages, interest, bail bond, forfeiture, reimbursement, liability owed, an assignment to the judicial branch, recovery of costs incurred by

the judicial branch, or any other source of indebtedness to the judicial branch as well as amounts owed to other public or private entities for which the judicial branch acts in providing collection services, or any other amount owed to the judicial branch.

(c) The courts must pay for the collection services of public or private collection entities as well as the cost of one or more court employees to provide collection interface services between the Department of Revenue, the courts, and one or more collection entities from the money collected. The portion of the money collected which must be paid to the collection entity as collection fees and costs and the portion of the money collected which must be paid to the courts or Department of Revenue for collection services are appropriated from the fund to which the collected money is due.

(d) As determined by the state court administrator, collection costs shall be added to the debts referred to a public or private collection entity for collection.

Collection costs shall include the fees of the collection entity, and may include, if separately provided, skip tracing fees, credit bureau reporting charges, fees assessed by any public entity for obtaining information necessary for debt collection, or other collection-related costs. Collection costs shall also include the costs of one or more court employees employed by the state court administrator to provide a collection interface between the collection entity, the Department of Revenue, and the courts.

If the collection entity collects an amount less than the total due, the payment is applied proportionally to collection costs and the underlying debt. Collection costs in excess of collection agency fees and court employee collection interface costs must be deposited in the general fund as nondedicated receipts.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 484.85, is amended to read:

**484.85 DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.**

~~(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:~~

~~(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;~~

~~(2) in arraignments where the defendant waives a preliminary examination, \$10;~~

~~(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and~~

~~(4) the court shall have the authority to waive the collection of fees in any particular case.~~

~~(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.~~

(a) In all cases prosecuted in Ramsey County District Court by an attorney for a municipality or subdivision of government within Ramsey County for violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected by the court administrator shall be forwarded to the commissioner of finance and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, or other law, on or before the last day of each month, the commissioner of finance shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

(1) for offenses committed within the city of St. Paul, two-thirds paid to the treasurer of the city of St. Paul and one-third deposited in the state treasury and credited to the general fund; and

(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half to the treasurer of the municipality or subdivision of government and one-half deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the district court shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

(c) The court administrator shall provide the commissioner of finance with the name of the municipality or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 484.90, subdivision 6, is amended to read:

~~Subd. 6. **Allocation.** The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of~~

~~government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund. (a) In all cases prosecuted in district court by an attorney for a municipality or other subdivision of government within the county for violations of state statute, or of an ordinance; or charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected shall be forwarded to the commissioner of finance and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, 484.841, 484.85, or other law, on or before the last day of each month, the commissioner of finance shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:~~

(1) 100 percent of all fines or penalties for parking violations for which complaints and warrants have not been issued to the treasurer of the city or town in which the offense was committed; and

(2) two-thirds of all other fines to the treasurer of the city or town in which the offense was committed and one-third deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the court administrator shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3;

(2) a city has a population of 600 or less and has given the duty to prosecute cases to the county attorney under section 484.87; or

(3) the attorney general provides assistance to the county attorney as permitted by law.

(c) The court administrator shall provide the commissioner of finance with the name of the city, town, or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.



Sec. 30. Minnesota Statutes 2008, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~five years~~ after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 31. Minnesota Statutes 2008, section 550.011, is amended to read:

**550.011 JUDGMENT DEBTOR DISCLOSURE.**

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 609.035, subdivision 2, is amended to read:

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;
- (2) section 169A.20, subdivision 2, test refusal;
- (3) section 169.791, failure to provide proof of insurance;
- (4) section 169.797, failure to provide vehicle insurance;
- (5) section 171.09, violation of condition of restricted license;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license; and
- (8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

Sec. 33. Minnesota Statutes 2008, section 609.10, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or

(3) to both imprisonment for a fixed term of years and payment of a fine; or

(4) to payment of a fine without imprisonment ~~or to imprisonment for a fixed term of years if the fine is not paid or as an intermediate sanction on a stayed sentence;~~ or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the Judicial Council in consultation with affected state and local agencies. ~~This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise according to section 609.1315.~~

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

~~The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 35. **[609.104] FINE AND SURCHARGE COLLECTION.**

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after the effective date of this section.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 36. Minnesota Statutes 2008, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine, ~~or to imprisonment for a specified term if the fine is not paid~~ without imprisonment or as an intermediate sanction on a stayed sentence; or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 609.131, subdivision 3, is amended to read:

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure, or was treated as a petty misdemeanor by inclusion on the uniform fine schedule, may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to violations committed on or after that date.

Sec. 38. **[609.1315] UNIFORM FINE SCHEDULE.**

Subdivision 1. **Establishment and effective date.** The Judicial Council shall establish a uniform fine schedule in consultation with affected state and local agencies. The uniform fine schedule may include petty misdemeanor and misdemeanor offenses, but shall not include targeted misdemeanors as defined in section 299C.10. The uniform

fine schedule shall set a fine that may be paid for each offense in lieu of a court appearance. The uniform fine schedule and any modifications shall be submitted to the legislature for approval by January 1 of each year and shall become effective on July 1 of that year unless the legislature, by law, provides otherwise.

Subd. 2. **Effect on misdemeanor offenses.** Any misdemeanors included on the uniform fine schedule shall be treated as petty misdemeanors, unless on the third or subsequent offense the charge is brought by a formal complaint or, for offenses committed under chapter 169, the violation was committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property. Nothing in this subdivision limits the authority of a peace officer to make an arrest for offenses included on the uniform fine schedule. Nothing in this section limits the operation of section 169.89, subdivision 1. This subdivision expires on July 1, 2011.

Subd. 3. **Notice.** A defendant must be advised in writing that payment of the fine for an offense on the uniform fine schedule constitutes a plea of guilty, waiver of the right to trial, and waiver of the right to counsel.

**EFFECTIVE DATE.** Subdivision 2 is effective July 1, 2009, and applies to acts committed on or after that date.

Sec. 39. Minnesota Statutes 2008, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 40. Minnesota Statutes 2008, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **Failure to pay restitution or fine.** If the court orders payment of restitution ~~or a fine~~ as a condition of probation and if the defendant fails to pay the restitution ~~or a fine~~ in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to

determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ~~or fine~~ ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution ~~or a fine~~ in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution ~~or fine~~ the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution ~~or a fine~~ may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution ~~or fine~~ that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

- (1) the defendant has failed to complete court-ordered treatment successfully; and
- (2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 611.17, is amended to read:

**611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and

(4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a ~~\$28~~ \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 43. Minnesota Statutes 2008, section 631.48, is amended to read:

**631.48 SENTENCE; COSTS OF PROSECUTION.**

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements ~~must be paid into the treasury of the county of conviction, but~~ of ordered prosecution costs shall be paid to the municipality or subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the case. This payment may not interfere with the payment of officers', witnesses', or jurors' fees.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 44. **PUBLIC DEFENDER FEE; PUBLIC DEFENDER FEE ACCOUNT.**

Subdivision 1. **Creation of fee.** The state court administrator, through the lawyer registration office, may assess a public defender fee on each licensed attorney in the state. The fee must be equal to or greater than the civil legal services fee that licensed attorneys are required to pay pursuant to the rules of the Supreme Court on lawyer registration.

Subd. 2. **Creation of account.** A public defender fee account is created in the special revenue fund. The public defender fee is deposited in the public defender fee account in the special revenue fund. The amounts in the account are appropriated to the Board of Public Defense.

Subd. 3. **Purpose of account.** The purpose of the public defender fee account is to provide funding for the Board of Public Defense.

Subd. 4. **Prohibition on nonpublic defender transfers from account.** Notwithstanding any law to the contrary, money in the public defender fee account shall be appropriated solely for the purpose of funding the Board of Public Defense.

**EFFECTIVE DATE.** This section is effective July 1, 2009.



Sec. 45. **REPEALER.**

Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 484.90, subdivisions 1, 2, and 3; 487.08, subdivisions 1, 2, 3, and 5; and 609.135, subdivision 8, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

ARTICLE 3

PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2008, section 152.025, subdivision 3, is amended to read:

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000. Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2008, section 171.29, subdivision 2, is amended to read:

Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An individual whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

(1) Twenty percent must be credited to the driver services operating account in the special revenue fund as specified in section 299A.705.

(2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account ~~may be~~ is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(3) the development and support of programs and services to prevent traumatic brain injury;

(4) the establishment of education programs for persons with traumatic brain injury; and

(5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

(e) When these fees are collected by a licensing agent, appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fees and surcharge must be deposited in an approved depository as directed under section 171.061, subdivision 4.

(f) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52 or 169A.54 and who the court certifies as being financially eligible for a public defender under section 611.17, may choose to pay 50 percent and an additional \$25 of the total amount of the surcharge and 50 percent of the fee required under paragraph (b) to reinstate the person's driver's license, provided the person meets all other requirements of reinstatement. If a person chooses to pay 50 percent of the total and an additional \$25, the driver's license must expire after two years. The person must pay an additional 50 percent less \$25 of the total to extend the license for an additional two years, provided the person is otherwise still eligible for the license. After this final payment of the surcharge and fee, the license may be renewed on a standard schedule, as provided under section 171.27. A handling charge may be imposed for each installment payment. Revenue from the handling charge is credited to the driver services operating account in the special revenue fund and is appropriated to the commissioner.

(g) Any person making installment payments under paragraph (f), whose driver's license subsequently expires, or is canceled, revoked, or suspended before payment of 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial reinstatement before the driver's license is subsequently reinstated. Upon payment of the outstanding balance due for the initial reinstatement, the person may pay any new surcharge and fee imposed under paragraph (b) in installment payments as provided under paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other year thereafter. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;
- (3) department annual statistics as outlined in the departmental policies and procedures; and
- (4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). The recidivism analysis must: (1) assess education programs, vocational programs, treatment programs, including mental health programs, industry, and employment; and (2) assess statewide re-entry policies and funding, including postrelease treatment, education, training, and supervision. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

(c) By August 31 of each odd-numbered year, the commissioner must present to the legislature a report that lists and describes the performance measures and targets the department will include in the biennial performance report. The measures and targets must include a budget target for the next two years and a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the data and information identified in paragraphs (a) and (b) regarding per diem, statistics, inmate programming, and recidivism, and the following:

- (1) average statutory per diem for adult offenders, female offenders, and juvenile offenders;
- (2) community corrections;
- (3) staffing and salaries for both department divisions and institutions;
- (4) the use of private and local institutions to house persons committed to the commissioner;
- (5) the cost of inmate health and dental care;
- (6) implementation and use of corrections best practices; and
- (7) the challenge incarceration program.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 244.055, subdivision 2, is amended to read:

Subd. 2. **Conditional release of certain nonviolent controlled substance offenders.** An offender who has been committed to the commissioner's custody may petition the commissioner for conditional release from prison before the offender's scheduled supervised release date or target release date if:

(1) the offender is serving a sentence for violating section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

(2) the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit;

(3) the offender has served at least 36 months or one-half of the offender's term of imprisonment, whichever is less;

(4) the offender successfully completed a chemical dependency treatment program of the type described in this section while in prison;

(5) the offender has not previously been conditionally released under this section; ~~and~~

(6) the offender has not within the past ten years been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 other than the current conviction for the controlled substance offense; and

(7) the offender has access upon release to aftercare, community-based chemical dependency treatment, and housing.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 299A.01, subdivision 1a, is amended to read:

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

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

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

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

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

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

~~(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and~~

~~(7)~~ (6) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 7. Minnesota Statutes 2008, section 299A.01, is amended by adding a subdivision to read:

Subd. 1c. **Performance report; performance measures and targets.** (a) The commissioner, as part of the department's mission and within the department's resources, shall report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to paragraph (b) and section 16A.10, subdivision 1. The purpose of the report is to determine the extent to which each program is accomplishing the program's mission, goals, and objectives.

The report may address:

- (1) factors that limited or delayed achievement of objectives or goals;
- (2) resources used or saved and efficiencies achieved in reaching program objectives and goals;
- (3) information from customers and partners of the agency regarding the quality of service and effectiveness of the agency and the agency's programs;
- (4) recommendations on elimination of unnecessary or obsolete mandated reports; and
- (5) major cases, events, or circumstances that required an agency response.

(b) By June 30 of each odd-numbered year, the commissioner must present to the legislature a report that states the mission, goals, and objectives of each program and lists and describes the performance measures and targets the department will include in the performance report required under paragraph (a). The report must include information on how program goals and objectives were created and who participated in formulating them. The measures and targets must include a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the following:

- (1) staffing and salaries for divisions within the agency;
- (2) caseloads and responsibilities of Bureau of Criminal Apprehension agents;
- (3) development and funding of the Allied Radio Matrix for Emergency Response (ARMER);
- (4) grant programs administered under the Office of Justice Programs and Homeland Security and Emergency Management;
- (5) receipt and expenditure of federal grant funds;
- (6) expenditure of the fire safety insurance surcharge;
- (7) emergency preparedness;
- (8) crime lab operations; and
- (9) assistance provided to crime victims.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 609.105, subdivision 1, is amended to read:

Subdivision 1. ~~Sentence to less than 180 days more than one year.~~ ~~In~~ A felony sentence to imprisonment, ~~when the remaining term of imprisonment is for 180 days or less, the defendant more than one year shall be committed~~ commit the defendant to the custody of the commissioner of corrections ~~and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to offenders sentenced on or after that date.

Sec. 9. **COUNTY-BASED REVOCATION CENTER PILOT PROJECT; REPORT.**

(a) Dodge, Fillmore, Olmsted, and Ramsey Counties and Tri-county and Hennepin Community Corrections, and any other county or community corrections department that requests to participate shall develop a proposal for a pilot project for a secure residential center and supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

(2) medical care;

(3) the transport of offenders to and from any facility;

(4) detailed current and future costs and per diems associated with the facility;

(5) admission and release procedures of the proposed facility;

(6) intended outcomes of the pilot project; and

(7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, the counties of Dodge, Fillmore, Olmsted, and Ramsey and Tri-county and Hennepin County Community Corrections shall report the pilot project proposal to the chairs and ranking minority members of the legislative committees having jurisdiction over public safety policy and finance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 10. **REPEALER.**

Minnesota Statutes 2008, section 609.105, subdivisions 1a and 1b, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

ARTICLE 4

CORRECTIONAL STATE EMPLOYEES RETIREMENT PLAN I

Section 1. Minnesota Statutes 2008, section 352.90, is amended to read:

**352.90 POLICY.**

It is the policy of the legislature to provide special retirement benefits for and special contributions by certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state correctional facilities ~~or~~, of patients at the Minnesota Security Hospital, or of patients in the Minnesota sex offender program, ~~or of patients in the Minnesota extended treatment options program.~~

Sec. 2. Minnesota Statutes 2008, section 352.91, subdivision 1, is amended to read:

Subdivision 1. **Qualifying jobs.** "Covered correctional service" means service performed by a state employee, as defined in section 352.01, who is employed at a state correctional facility, the Minnesota Security Hospital, or the Minnesota sex offender program as:

- (1) a corrections officer 1;
- (2) a corrections officer 2;
- (3) a corrections officer 3;
- ~~(4) a corrections officer supervisor;~~
- ~~(5)~~ (4) a corrections lieutenant;
- ~~(6)~~ (5) a corrections captain;
- ~~(7)~~ (6) a security counselor;
- ~~(8)~~ (7) a security counselor lead; ~~or~~
- ~~(9)~~ (8) a corrections canine officer;
- (9) group supervisor; or
- (10) group supervisor assistant.

Sec. 3. Minnesota Statutes 2008, section 352.91, subdivision 3h, is amended to read:

Subd. 3h. **Employment occupation name changes.** (a) If the occupational title of a state employee covered by the Minnesota correctional employees retirement plan changes from the applicable title listed in subdivision 1, ~~2, 2a, 3e, 3d, 3e, 3f, or 3g,~~ qualification for coverage by the correctional state employees retirement plan continues until the July 1 next following the title change if the commissioner of finance certifies to the executive director of the Minnesota State Retirement System and to the executive director of the Legislative Commission on Pensions and Retirement that the duties, requirements, and responsibilities of the new occupational title are substantially identical to the duties, requirements, and responsibilities of the prior occupational title.

(b) If the commissioner of finance does not certify a new occupational title under paragraph (a), eligibility for future correctional state employees retirement coverage terminates as of the start of the first payroll period next following the effective date of the occupational title change.

(c) For consideration by the Legislative Commission on Pensions and Retirement during the legislative session next following an occupational title change involving a state employee in covered correctional service, the commissioner of finance shall submit the applicable draft proposed legislation reflecting the occupational title change covered by this section.

Sec. 4. **REPEALER.**

Minnesota Statutes 2008, section 352.91, subdivisions 2, 2a, 3c, 3d, 3e, 3f, 3g, 3i, 4a, 4b, and 5, are repealed.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective July 1, 2009, but do not apply to persons holding eligible positions prior to the effective date.

ARTICLE 5

CORRECTIONAL EMPLOYEES RETIREMENT PLAN II

Section 1. Minnesota Statutes 2008, section 352.72, subdivision 1, is amended to read:

Subdivision 1. **Entitlement to annuity.** (a) Except as provided in paragraph (b), any person who has been an employee covered by a retirement system listed in paragraph ~~(b)~~ (c) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals three or more years.

(b) If the combination of retirement plans includes the correctional state employees retirement plan of the Minnesota State Retirement System, no retirement annuity is payable from the correctional state employees retirement plan unless the person has credit for at least ten years of covered correctional service under section 352.91, although any covered correctional service may be used to establish eligibility for an annuity from another retirement plan and a service credit transfer under section 352.93, subdivision 4a, may be elected.

(c) This section applies to the Minnesota State Retirement System, the Public Employees Retirement Association including the Public Employees Retirement Association police and fire fund, the Teachers Retirement Association, the State Patrol Retirement Association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph ~~(e)~~ (d).

~~(e)~~ (d) This section does not apply to other funds providing benefits for police officers or firefighters under chapter 423A, 423B, or 424A.

~~(d)~~ (e) No portion of the allowable service upon which the retirement annuity from one fund is based shall be again used in the computation for benefits from another fund. No refund may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate provisions of the law except that the requirement that a person must have at least three years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals three or more years.

Sec. 2. Minnesota Statutes 2008, section 352.93, subdivision 1, is amended to read:

Subdivision 1. **Basis of annuity; when to apply.** After separation from state service, an employee covered under section 352.91 who has reached age 55 years and has credit for at least ~~three ten~~ years of covered correctional service ~~or a combination of covered correctional service and general employees state retirement plan service~~ is



entitled upon application to a retirement annuity under this section, based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

Sec. 3. Minnesota Statutes 2008, section 352.93, subdivision 2a, is amended to read:

Subd. 2a. **Early retirement.** Any covered correctional employee who becomes at least 50 years old and who has at least ~~three~~ ten years of ~~allowable~~ covered correctional service is entitled upon application to a reduced retirement annuity equal to the annuity calculated under subdivision 2, reduced by two-tenths of one percent for each month that the correctional employee is under age 55 at the time of retirement.

Sec. 4. Minnesota Statutes 2008, section 352.93, subdivision 4, is amended to read:

Subd. 4. **Employee with regular and correctional service.** A former employee who has both regular and correctional service shall, if the employee has at least ten years of covered correctional service and is otherwise qualified, receive an annuity based on both periods of service under applicable sections of law but no period of service shall be used more than once in calculating the annuity.

Sec. 5. Minnesota Statutes 2008, section 352.93, is amended by adding a subdivision to read:

Subd. 4a. **Service credit transfer and partial refund in certain instances.** An employee covered under section 352.91 who has reached the age of 55 years and who has credit for less than ten years of covered correctional service may, upon written application, have that covered correctional service credited as allowable service credit in the general state employees retirement plan and used to calculate a retirement annuity under sections 352.115 and 352.116, and receive, 30 days following retirement, a refund of that portion of employee contributions during covered correctional service under section 352.92, subdivision 1, that exceeds the employee contributions required under the general state employees retirement plan under section 352.04, subdivision 2, for the same period, plus annual compound interest on the partial refund amount from the date of each contribution until the date of refund payment at the rate of six percent.

Sec. 6. Minnesota Statutes 2008, section 356.30, subdivision 1, is amended to read:

Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any provisions of the laws governing the retirement plans enumerated in subdivision 3, a person who has met the qualifications of paragraph (b) may elect to receive a retirement annuity from each enumerated retirement plan, other than the correctional state employees retirement plan of the Minnesota State Retirement System, in which the person has at least one-half year of allowable service, based on the allowable service in each plan, subject to the provisions of paragraph (c).

(b) A person may receive, upon retirement, a retirement annuity from each enumerated retirement plan, other than the correctional state employees retirement plan of the Minnesota State Retirement System, in which the person has at least one-half year of allowable service, and augmentation of a deferred annuity calculated at the appropriate rate under the laws governing each public pension plan or fund named in subdivision 3, based on the date of the person's initial entry into public employment from the date the person terminated all public service if:

(1) the person has allowable service totaling an amount that allows the person to receive an annuity in any two or more of the enumerated plans; and

(2) the person has not begun to receive an annuity from any enumerated plan or the person has made application for benefits from each applicable plan and the effective dates of the retirement annuity with each plan under which the person chooses to receive an annuity are within a one-year period.

(c) The retirement annuity from each plan must be based upon the allowable service, accrual rates, and average salary in the applicable plan except as further specified or modified in the following clauses:

(1) the laws governing annuities must be the law in effect on the date of termination from the last period of public service under a covered retirement plan with which the person earned a minimum of one-half year of allowable service credit during that employment;

(2) the "average salary" on which the annuity from each covered plan in which the employee has credit in a formula plan must be based on the employee's highest five successive years of covered salary during the entire service in covered plans;

(3) the accrual rates to be used by each plan must be those percentages prescribed by each plan's formula as continued for the respective years of allowable service from one plan to the next, recognizing all previous allowable service with the other covered plans;

(4) the allowable service in all the plans must be combined in determining eligibility for and the application of each plan's provisions in respect to reduction in the annuity amount for retirement prior to normal retirement age; ~~and~~

(5) the annuity amount payable for any allowable service under a nonformula plan of a covered plan must not be affected, but such service and covered salary must be used in the above calculation; and

(6) for a person who was a member of the correctional state employees retirement plan, the person must have at least ten years of covered correctional service under section 352.91 in order to receive a retirement annuity from that plan, but may apply for a service credit transfer and partial refund under section 352.93, subdivision 4a.

(d) This section does not apply to any person whose final termination from the last public service under a covered plan was before May 1, 1975.

(e) For the purpose of computing annuities under this section, the accrual rates used by any covered plan, except the public employees police and fire plan, the judges retirement fund, and the State Patrol retirement plan, must not exceed the percent specified in section 356.315, subdivision 4, per year of service for any year of service or fraction thereof. The formula percentage used by the judges retirement fund must not exceed the percentage rate specified in section 356.315, subdivision 8, per year of service for any year of service or fraction thereof. The accrual rate used by the public employees police and fire plan and the State Patrol retirement plan must not exceed the percentage rate specified in section 356.315, subdivision 6, per year of service for any year of service or fraction thereof. The accrual rate or rates used by the legislators retirement plan must not exceed 2.5 percent, but this limit does not apply to the adjustment provided under section 3A.02, subdivision 1, paragraph (c).

(f) Any period of time for which a person has credit in more than one of the covered plans must be used only once for the purpose of determining total allowable service.

(g) If the period of duplicated service credit is more than one-half year, or the person has credit for more than one-half year, with each of the plans, each plan must apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all plans for the period.

(h) If the period of duplicated service credit is less than one-half year, or when added to other service credit with that plan is less than one-half year, the service credit must be ignored and a refund of contributions made to the person in accord with that plan's refund provisions.

#### Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective July 1, 2009, but do not apply to persons holding eligible positions prior to the effective date."

Delete the title and insert:

"A bill for an act relating to public safety; clarifying elements and penalties of certain crimes; requiring reports; providing for a uniform fine schedule; authorizing collection of fines and surcharges; modifying correctional state employees retirement plan; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; appropriating money for the courts, public defenders, public safety, corrections, and other criminal justice agencies; amending Minnesota Statutes 2008, sections 2.722, subdivisions 4, 4a; 2.724, subdivisions 2, 3; 86B.705, subdivision 2; 134A.09, subdivision 2a; 134A.10, subdivision 3; 152.025, subdivisions 1, 2, 3; 152.0262, subdivision 1; 169A.20, subdivision 1, by adding subdivisions; 169A.25, subdivision 1; 169A.26, subdivision 1; 169A.27, subdivision 1; 169A.28, subdivision 2; 169A.284; 169A.46, subdivision 1; 169A.54, subdivision 1; 171.29, subdivision 2; 241.016, subdivision 1; 244.055, subdivisions 2, 11; 299A.01, subdivision 1a, by adding a subdivision; 299D.03, subdivision 5; 352.72, subdivision 1; 352.90; 352.91, subdivisions 1, 3h; 352.93, subdivisions 1, 2a, 4, by adding a subdivision; 356.30, subdivision 1; 357.021, subdivision 6; 364.08; 375.14; 480.15, by adding a subdivision; 484.85; 484.90, subdivision 6; 491A.02, subdivision 9; 525.091, subdivision 1; 550.011; 609.035, subdivision 2; 609.10, subdivision 1; 609.101, subdivision 4; 609.105, subdivision 1; 609.125, subdivision 1; 609.131, subdivision 3; 609.135, subdivisions 1, 1a, 2; 611.17; 631.48; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 352.91, subdivisions 2, 2a, 3c, 3d, 3e, 3f, 3g, 3i, 4a, 4b, 5; 484.90, subdivisions 1, 2, 3; 487.08, subdivisions 1, 2, 3, 5; 609.105, subdivisions 1a, 1b; 609.135, subdivision 8."

Signed:

PAUL KOHLS  
TOM EMMER  
STEVE SMITH  
LAURA BROD  
RON SHIMANSKI

Kohls moved that the Minority Report on H. F. No. 1657 be substituted for the Majority Report and that the Minority Report be now adopted.

A roll call was requested and properly seconded.

#### LAY ON THE TABLE

Sertich moved that the Minority Report on H. F. No. 1657 be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called. There were 85 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Anzelc	Bigham	Brynaert	Champion	Dill	Eken
Atkins	Bly	Bunn	Clark	Dittrich	Falk
Benson	Brown	Carlson	Davnie	Doty	Faust

Fritz	Huntley	Lieder	Nelson	Rukavina	Thissen
Gardner	Jackson	Lillie	Newton	Ruud	Tillberry
Greiling	Johnson	Loeffler	Norton	Sailer	Wagenius
Hansen	Juhnke	Mahoney	Olin	Scalze	Ward
Hausman	Kahn	Mariani	Otremba	Sertich	Welti
Haws	Kalin	Marquart	Paymar	Simon	Winkler
Hayden	Kath	Masin	Pelowski	Slawik	Spk. Kelliher
Hilstrom	Knuth	Morgan	Persell	Slocum	
Hilty	Koenen	Morrow	Peterson	Solberg	
Hornstein	Laine	Mullery	Poppe	Sterner	
Hortman	Lenczewski	Murphy, E.	Reinert	Swails	
Hosch	Lesch	Murphy, M.	Rosenthal	Thao	

Those who voted in the negative were:

Abeler	Davids	Garofalo	Kelly	McFarlane	Seifert
Anderson, B.	Dean	Gottwalt	Kiffmeyer	McNamara	Severson
Anderson, P.	Demmer	Gunther	Kohls	Murdock	Shimanski
Anderson, S.	Dettmer	Hackbarth	Lanning	Nornes	Smith
Beard	Doepke	Hamilton	Liebling	Obermueller	Torkelson
Brod	Downey	Holberg	Loon	Peppin	Urdahl
Buesgens	Drazkowski	Hoppe	Mack	Sanders	Zellers
Cornish	Emmer	Howes	Magnus	Scott	

The motion prevailed and the Minority Report on H.F. No. 1657 was laid on the table.

The question recurred on the adoption of the Majority Report from the Committee on Finance relating to H. F. No. 1657.

A roll call was requested and properly seconded.

The question was taken on the adoption of the Majority Report from the Committee on Finance relating to H. F. No. 1657 and the roll was called. There were 87 yeas and 45 nays as follows:

Those who voted in the affirmative were:

Anzels	Eken	Huntley	Loeffler	Otremba	Slocum
Atkins	Falk	Jackson	Mahoney	Paymar	Solberg
Benson	Faust	Johnson	Mariani	Pelowski	Sterner
Bigham	Fritz	Juhnke	Marquart	Persell	Swails
Bly	Gardner	Kahn	Masin	Peterson	Thao
Brown	Greiling	Kalin	Morgan	Poppe	Thissen
Brynaert	Hansen	Kath	Morrow	Reinert	Tillberry
Bunn	Hausman	Knuth	Mullery	Rosenthal	Wagenius
Carlson	Haws	Koenen	Murphy, E.	Rukavina	Ward
Champion	Hayden	Laine	Murphy, M.	Ruud	Welti
Clark	Hilstrom	Lenczewski	Nelson	Sailer	Winkler
Davnie	Hilty	Lesch	Newton	Scalze	Spk. Kelliher
Dill	Hornstein	Liebling	Norton	Sertich	
Dittrich	Hortman	Lieder	Obermueller	Simon	
Doty	Hosch	Lillie	Olin	Slawik	

Those who voted in the negative were:

Abeler	Davids	Garofalo	Kelly	McNamara	Shimanski
Anderson, B.	Dean	Gottwalt	Kiffmeyer	Murdock	Smith
Anderson, P.	Demmer	Gunther	Kohls	Nornes	Torkelson
Anderson, S.	Dettmer	Hackbarth	Lanning	Peppin	Urdahl
Beard	Doepke	Hamilton	Loon	Sanders	Zellers
Brod	Downey	Holberg	Mack	Scott	
Buesgens	Drazkowski	Hoppe	Magnus	Seifert	
Cornish	Emmer	Howes	McFarlane	Severson	

The Majority Report on H. F. No. 1657 was adopted.

Hilstrom from the Committee on Public Safety Policy and Oversight to which was referred:

H. F. No. 1947, A bill for an act relating to public safety; establishing the statewide Minnesota prescription program; requiring use of tamper-resistant prescription drug forms; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 151.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Finance.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 2088, A bill for an act relating to early childhood education; school readiness program; school readiness service agreements; prekindergarten exploratory projects; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 119B.13, subdivision 1; 119B.231, subdivisions 2, 3, 4; Laws 2007, chapter 147, article 2, section 62, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### EARLY CHILDHOOD EDUCATION

##### Section 1. **[4.046] OFFICE OF EARLY LEARNING.**

(a) An Office of Early Learning is established to oversee and coordinate a high-quality early childhood system in Minnesota to make such programs more effective and to improve the educational outcomes of children. The governor must appoint, subject to the advice and consent of the senate, a director who is a recognized expert in the field of early childhood care and education who will oversee prekindergarten and child care programs under the administration of the Departments of Education and Human Services.

(b) The director of the Office of Early Learning must report to the commissioners of education and human services and must coordinate Departments of Education and Human Services staff efforts to:

(1) oversee resources and public funding streams for early childhood education and child care and ensure the accountability and coordinated development of all early childhood education and child care services to children from birth to age five;

(2) work with the Departments of Education and Human Services and the Minnesota Early Learning Foundation (MELF) to create common standards for quality early childhood programming;

(3) create a seamless transition from early childhood programs to kindergarten that aligns with kindergarten through grade 3 standards;

(4) develop and oversee an effective data collection system to support the necessary functions of a coordinated system of early childhood education and child care;

(5) plan and implement a voluntary quality rating and improvement system to ensure that Minnesota's children have access to high-quality early learning and care programs in a range of settings that meet the needs of children and their families and reflects the diversity of the family values and cultural heritage represented in the community;

(6) prior to the creation of a voluntary quality rating and improvement system, employ the Minnesota quality rating system rating tool in use in fiscal year 2008; and

(7) create an inventory of early childhood services that:

(i) identifies state programs and initiatives funded by state, federal, and private dollars;

(ii) provides brief descriptions of programs under which services are received;

(iii) provides budget allocations toward the outcome areas; and

(iv) includes subsections describing specific:

(A) geographic regions served by the program;

(B) number of children eligible;

(C) number of children enrolled; and

(D) age, ethnicity and race, and income demographics of children enrolled.

The inventory shall be used to guide legislative proposals and best practices addressing the development, care, and education of children from birth to the child's fifth birthday. The inventory should be updated every biennium.

(c) The director of the Office of Early Learning must coordinate activities with the State Advisory Council on Early Childhood Education and Care under section 124D.141.

(d) The director of the Office of Early Learning must report to the legislative committees with jurisdiction over the early childhood education and child care programs by February 1 of each year on the status of the work required under paragraph (b) and any statutory changes necessary to improve quality and increase access. The director also must present to these same legislative committees by February 1, 2010, a detailed plan, with an implementation timeline, to colocate state early childhood education and child care assistance programs and services.

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

Sec. 2. Minnesota Statutes 2008, section 119A.52, is amended to read:

**119A.52 DISTRIBUTION OF APPROPRIATION.**

(a) The commissioner of education must distribute money appropriated for that purpose to federally designated Head Start programs to expand services and to serve additional low-income children. Migrant and Indian reservation programs must be initially allocated money based on the programs' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start program must be funded at a per child rate equal to its contracted, federally funded base level at the start of the fiscal year. For all agencies without a federal Early Head Start rate, the state average federal cost per child for Early Head Start applies. In allocating funds under this paragraph, the commissioner of education must assure that each Head Start program in existence in 1993 is allocated no less funding in any fiscal year than was allocated to that program in fiscal year 1993. Before paying money to the programs, the commissioner must notify each program of its initial allocation, and how the money must be used, ~~and the number of low income children to be served with the allocation based upon the federally funded per child rate.~~ Each program must present a plan under section 119A.535. For any program that cannot utilize its full allocation at the beginning of the fiscal year, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible programs.

(b) The commissioner must develop procedures to make payments to programs based upon the number of children reported to be enrolled during the required time period of program operations. Enrollment is defined by federal Head Start regulations. The procedures must include a reporting schedule, corrective action plan requirements, and financial consequences to be imposed on programs that do not meet full enrollment after the period of corrective action. Programs reporting chronic underenrollment, as defined by the commissioner, will have their subsequent program year allocation reduced proportionately. Funds made available by prorating payments and allocations to programs with reported underenrollment will be made available to the extent funds exist to fully enrolled Head Start programs through a form and manner prescribed by the department.

(c) Programs with approved innovative initiatives that target services to high-risk populations, including homeless families and families living in homeless shelters and transitional housing, are exempt from the procedures in paragraph (b). This exemption does not apply to entire programs. The exemption applies only to approved innovative initiatives that target services to high-risk populations, including homeless families and families living in homeless shelters, transitional housing, and permanent supportive housing.

Sec. 3. Minnesota Statutes 2008, section 124D.13, subdivision 13, is amended to read:

Subd. 13. **Plan and Program data submission requirements.** ~~(a) An early childhood family education program must submit a biennial plan addressing the requirements of subdivision 2 for approval by the commissioner. The plan must also describe how the program provides parenting education and ensures participation of families representative of the school district. A school district must submit the plan for approval by the commissioner in the form and manner prescribed by the commissioner. One half of districts, as determined by the commissioner, must first submit a biennial plan by April 1, 2009, and the remaining districts must first submit a plan by April 1, 2010.~~

~~(b) Districts receiving early childhood family education revenue under section 124D.135 must submit annual program data to the department by July 15 in the form and manner prescribed by the commissioner.~~

~~(c) Beginning with levies for fiscal year 2011, a school district must submit its annual program data to the department before it may certify a levy under section 124D.135. Districts selected by the commissioner to submit a biennial plan by April 1, 2009, must also have an approved plan on file with the commissioner before certifying a~~

~~levy under section 124D.135 for fiscal year 2011. Beginning with levies for fiscal year 2012, all districts must submit annual program data and have an approved biennial plan on file with the commissioner before certifying a levy under section 124D.135.~~

Sec. 4. Minnesota Statutes 2008, section 124D.135, subdivision 3, is amended to read:

Subd. 3. **Early childhood family education levy.** (a) By September 30 of each year, the commissioner shall establish a tax rate for early childhood family education revenue that raises \$22,135,000 in each fiscal year. If the amount of the early childhood family education levy would exceed the early childhood family education revenue, the early childhood family education levy must equal the early childhood family education revenue. ~~Beginning with levies for fiscal year 2011, A district may not certify an early childhood family education levy unless it has met the annual program data reporting and biennial plan requirements under section 124D.13, subdivision 13.~~

(b) Notwithstanding paragraph (a), for fiscal year 2009 only, the commissioner shall establish a tax rate for early education revenue that raises \$13,565,000.

Sec. 5. **[124D.142] QUALITY RATING AND IMPROVEMENT SYSTEM.**

(a) There is established a voluntary quality rating and improvement system to ensure that Minnesota's children have access to high-quality early learning and care programs in a range of settings so that children are fully ready for kindergarten by 2020. Creation of a standards-based voluntary quality rating and improvement system includes:

(1) establishing an early care and education framework that improves quality opportunities in order to improve the educational outcomes of children so that children are ready for school. The framework shall be based on the Minnesota quality rating system rating tool and a common set of child outcome standards and informed by evaluation results;

(2) using the framework as a tool to increase the number of publicly funded and regulated early learning and care services in both public and private market programs that are high quality. If a program or provider chooses to participate, the program or provider will be rated and may receive public supports associated with the rating. The state shall develop a plan to link future early learning and care state funding to the framework in a manner that complies with federal requirements; and

(3) using the framework to track progress toward statewide access to high-quality early learning and care programs, progress toward the number of low-income children whose parents can access quality programs, and progress toward increasing the number of children who are fully prepared to enter kindergarten.

(b) Prior to the creation of a voluntary statewide quality rating and improvement system in paragraph (a), the state shall employ the Minnesota quality rating system rating tool in use in fiscal year 2008 with its modification as a result of the evaluation results of the pilot project.

(c) The Departments of Education and Human Services must report to the legislative committees with jurisdiction over the early childhood education and child care programs by January 15, 2010, with how they will realign their existing state and federal administrative resources to implement the voluntary quality rating and improvement system. Any remaining design work required of the Departments of Education and Human Services should be completed within existing department resources currently allocated for early care and education activities. Additional implementation resources will be determined after both departments present early care and education administrative realignment plans to the legislature.

**EFFECTIVE DATE.** This section is effective July 1, 2009.



Sec. 6. **[124D.145] EARLY LEARNING SYSTEM.**

The early learning system is defined to be the coherent structure of research-based curriculum content, instructional practice, program and child assessment, performance-based child and programmatic standards, professional development, engagement and outreach, accountability, financing, and governance efforts that contribute to all aspects of children's development and to prepare children for kindergarten. This includes children's readiness for success in meeting Minnesota's kindergarten academic standards under section 120B.021. The system is delivered through a variety of public and private child care, preschool, Head Start, and school-based programs and services.

Sec. 7. Minnesota Statutes 2008, section 124D.15, subdivision 1, is amended to read:

Subdivision 1. **Establishment; purpose.** A district or a group of districts may establish a school readiness program for children age three to kindergarten entrance. The purpose of a school readiness program is to prepare children to enter kindergarten, especially children most at risk for being unprepared for kindergarten.

Sec. 8. Minnesota Statutes 2008, section 124D.15, subdivision 3, is amended to read:

Subd. 3. **Program requirements.** A school readiness program provider must:

(1) assess each child's cognitive skills with a comprehensive child assessment instrument when the child enters and again before the child leaves the program to inform program planning and parents and promote kindergarten readiness;

(2) provide comprehensive program content and intentional instructional practice aligned with the state early childhood learning guidelines and kindergarten standards and based on early childhood research and professional practice that is focused on children's cognitive, social, emotional, and physical skills and development and prepares children for the transition to kindergarten, including early literacy skills;

(3) coordinate appropriate kindergarten transition with parents and kindergarten teachers;

~~(3)~~ (4) arrange for early childhood screening and appropriate referral;

~~(4)~~ (5) involve parents in program planning and decision making;

~~(5)~~ (6) coordinate with relevant community-based services; and

~~(6)~~ (7) cooperate with adult basic education programs and other adult literacy programs;

(8) ensure staff-child ratios of one-to-ten and maximum group size of 20 children with the first staff required to be a teacher; and

(9) have teachers knowledgeable in early childhood curriculum content, assessment, and instruction.

Sec. 9. **TRANSFER OF DUTIES.**

Responsibilities of the commissioner of education for early childhood education programs and financing under Minnesota Statutes, sections 119A.50; 119A.52; 119A.53; 119A.535; 119A.541; 119A.545; 121A.16 to 121A.19; 124D.129; 124D.13; 124D.135; 124D.141; 124D.142; 124D.15; 124D.16; 124D.162; and 125A.259 to 125A.48, are transferred to the Office of Early Learning. Positions associated with these programs in the Department of Education are transferred to the Office of Early Learning. Responsibilities of the commissioner of human services

for child care assistance and child care development programs and financing under Minnesota Statutes, sections 119B.189 to 119B.23, are transferred to the Office of Early Learning. Positions associated with these programs in the Department of Human Services are transferred to the Office of Early Learning. Minnesota Statutes, section 15.039, applies to the transfer of the responsibilities in this section.

Sec. 10. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **School readiness.** For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

<u>\$8,379,000</u>	<u>.....</u>	<u>2010</u>
<u>\$10,095,000</u>	<u>.....</u>	<u>2011</u>

The 2010 appropriation includes \$1,009,000 for 2009 and \$7,370,000 for 2010.

The 2011 appropriation includes \$2,725,000 for 2010 and \$7,370,000 for 2011.

Subd. 3. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

<u>\$19,189,000</u>	<u>.....</u>	<u>2010</u>
<u>\$22,473,000</u>	<u>.....</u>	<u>2011</u>

The 2010 appropriation includes \$3,020,000 for 2009 and \$16,169,000 for 2010.

The 2011 appropriation includes \$5,980,000 for 2010 and \$16,493,000 for 2011.

Subd. 4. **Health and developmental screening aid.** For health and developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

<u>\$3,066,000</u>	<u>.....</u>	<u>2010</u>
<u>\$3,780,000</u>	<u>.....</u>	<u>2011</u>

The 2010 appropriation includes \$367,000 for 2009 and \$2,699,000 for 2010.

The 2011 appropriation includes \$997,000 for 2010 and \$2,783,000 for 2011.

Subd. 5. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

<u>\$20,100,000</u>	<u>.....</u>	<u>2010</u>
<u>\$20,100,000</u>	<u>.....</u>	<u>2011</u>

Any balance in the first year does not cancel but is available in the second year.

**Subd. 6. Educate parents partnership.** For the educate parents partnership under Minnesota Statutes, section 124D.129:

<u>\$50,000</u>	<u>.....</u>	<u>2010</u>
<u>\$50,000</u>	<u>.....</u>	<u>2011</u>

Any balance in the first year does not cancel but is available in the second year.

**Subd. 7. Kindergarten entrance assessment initiative and intervention program.** For the kindergarten entrance assessment initiative and intervention program under Minnesota Statutes, section 124D.162:

<u>\$287,000</u>	<u>.....</u>	<u>2010</u>
<u>\$287,000</u>	<u>.....</u>	<u>2011</u>

Any balance in the first year does not cancel but is available in the second year.

**Sec. 11. REVISOR'S INSTRUCTION.**

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall:

(1) substitute the term "director" for "commissioner" and "commissioner of education" in the following: Minnesota Statutes, sections 119A.50; 119A.52; 119A.53; 119A.535; 119A.541; 119A.545; 121A.16 to 121A.19; 124D.129; 124D.13; 124D.135; 124D.141; 124D.142; 124D.15; 124D.16; 124D.162; and 125A.259 to 125A.48. In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall substitute the term "director" for "commissioner" and "commissioner of human services" in Minnesota Statutes, sections 119B.189 to 119B.23; and

(2) substitute the term "Office of Early Learning" for the term "Department of Education" in the following: Minnesota Statutes, sections 119A.50; 119A.52; 119A.53; 119A.535; 119A.541; 119A.545; 121A.16 to 121A.19; 124D.129; 124D.13; 124D.135; 124D.141; 124D.142; 124D.15; 124D.16; 124D.162; and 125A.259 to 125A.48; and substitute the term "Office of Early Learning" for the term "Department of Human Services" in the following: Minnesota Statutes, sections 119B.189 to 119B.23.

## ARTICLE 2

### PREVENTION

Section 1. Minnesota Statutes 2008, section 124D.19, subdivision 10, is amended to read:

**Subd. 10. Youth service programs.** (a) A school board may offer, as part of a community education program with a youth development program, a youth service program that provides young people with meaningful opportunities to become involved in their community, develop individual capabilities, make career connections, seek support networks and services, become active citizens, and address community needs through youth service. The board may award up to one credit, or the equivalent, toward graduation for a pupil who completes the youth service requirements of the district. The community education advisory council, after considering the results of the commissioner's study under section 124D.50, subdivision 1, must design the program in cooperation with the district planning, evaluating and reporting committee and local organizations that train volunteers or need volunteers' services.

(b) Programs must include:

(1) preliminary training for pupil volunteers conducted, when possible, by organizations experienced in such training;

(2) supervision of the pupil volunteers to ensure appropriate placement and adequate learning opportunity;

(3) sufficient opportunity, in a positive setting for human development, for pupil volunteers to develop general skills in preparation for employment, to enhance self-esteem and self-worth, and to give genuine service to their community;

(4) integration of academic learning with the service experience; and

(5) integration of youth community service with elementary and secondary curriculum.

(c) Youth service projects include, but are not limited to, the following:

(1) human services for the elderly, including home care and related services;

(2) tutoring and mentoring;

(3) training for and providing emergency services;

(4) services at extended day programs;

(5) environmental services; and

(6) service-learning programs in which schools, including postsecondary schools, and employers work together with young people to provide them with meaningful opportunities for community service and with the academic and technical skills that employers require.

~~(d) The commissioner shall maintain a list of acceptable projects with a description of each project. A project that is not on the list must be approved by the commissioner.~~

~~(d)~~ (d) A youth service project must have a community sponsor that may be a governmental unit or nonprofit organization. To assure that pupils provide additional services, each sponsor must assure that pupil services do not displace employees or reduce the workload of any employee.

~~(e)~~ (e) The commissioner shall assist districts in planning youth service programs, implementing programs, and developing recommendations for obtaining community sponsors.

Sec. 2. Minnesota Statutes 2008, section 124D.19, subdivision 14, is amended to read:

Subd. 14. **Community education; annual report.** Each district offering a community education program under this section must annually report to the department information regarding ~~the cost per participant and cost per contact hour for~~ each community education program, including youth after-school enrichment programs, that receives aid or levy. ~~The department must include cost per participant and cost per contact hour information by program in the community education annual report.~~

Sec. 3. **APPROPRIATIONS.**

Subdivision 1. Department of Education. The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

<u>\$488,000</u>	.....	<u>2010</u>
<u>\$486,000</u>	.....	<u>2011</u>

The 2010 appropriation includes \$73,000 for 2009 and \$415,000 for 2010.

The 2011 appropriation includes \$153,000 for 2010 and \$333,000 for 2011.

Subd. 3. **Adults with disabilities program aid.** For adults with disabilities programs under Minnesota Statutes, section 124D.56:

<u>\$590,000</u>	.....	<u>2010</u>
<u>\$710,000</u>	.....	<u>2011</u>

The 2010 appropriation includes \$71,000 for 2009 and \$519,000 for 2010.

The 2011 appropriation includes \$191,000 for 2010 and \$519,000 for 2011.

Subd. 4. **Hearing-impaired adults.** For programs for hearing-impaired adults under Minnesota Statutes, section 124D.57:

<u>\$70,000</u>	.....	<u>2010</u>
<u>\$70,000</u>	.....	<u>2011</u>

Subd. 5. **School-age care revenue.** For extended day aid under Minnesota Statutes, section 124D.22:

<u>\$1,000</u>	.....	<u>2010</u>
<u>\$1,000</u>	.....	<u>2011</u>

The 2010 appropriation includes \$0 for 2009 and \$1,000 for 2010.

The 2011 appropriation includes \$0 for 2010 and \$1,000 for 2011.

### ARTICLE 3

#### SELF-SUFFICIENCY AND LIFELONG LEARNING

Section 1. Minnesota Statutes 2008, section 124D.522, is amended to read:

#### **124D.522 ADULT BASIC EDUCATION SUPPLEMENTAL SERVICE GRANTS.**

(a) The commissioner, in consultation with the policy review task force under section 124D.521, may make grants to nonprofit organizations to provide services that are not offered by a district adult basic education program or that are supplemental to either the statewide adult basic education program, or a district's adult basic education program. The commissioner may make grants for: staff development for adult basic education teachers and administrators; training for volunteer tutors; training, services, and materials for serving disabled students through

adult basic education programs; statewide promotion of adult basic education services and programs; development and dissemination of instructional and administrative technology for adult basic education programs; programs which primarily serve communities of color; adult basic education distance learning projects, including television instruction programs; and other supplemental services to support the mission of adult basic education and innovative delivery of adult basic education services.

(b) The commissioner must establish eligibility criteria and grant application procedures. Grants under this section must support services throughout the state, focus on educational results for adult learners, and promote outcome-based achievement through adult basic education programs. Beginning in fiscal year 2002, the commissioner may make grants under this section from the state total adult basic education aid set aside for supplemental service grants under section 124D.531. Up to one-fourth of the appropriation for supplemental service grants must be used for grants for adult basic education programs to encourage and support innovations in adult basic education instruction and service delivery. A grant to a single organization cannot exceed ~~\$100,000~~ 20 percent of the total supplemental services aid. Nothing in this section prevents an approved adult basic education program from using state or federal aid to purchase supplemental services.

Sec. 2. **APPROPRIATIONS.**

Subdivision 1. Department of Education. The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. Adult basic education aid. For adult basic education aid under Minnesota Statutes, section 124D.531:

<u>\$35,648,000</u>	<u>.....</u>	<u>2010</u>
<u>\$44,039,000</u>	<u>.....</u>	<u>2011</u>

The 2010 appropriation includes \$4,187,000 for 2009 and \$31,461,000 for 2010.

The 2011 appropriation includes \$11,636,000 for 2010 and \$32,403,000 for 2011.

Subd. 3. GED tests. For payment of 60 percent of the costs of GED tests under Minnesota Statutes, section 124D.55:

<u>\$125,000</u>	<u>.....</u>	<u>2010</u>
<u>\$125,000</u>	<u>.....</u>	<u>2011</u>

Any balance in the first year does not cancel but is available in the second year.

ARTICLE 4

CHILD CARE ASSISTANCE

Section 1. **HUMAN SERVICES APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
2010                      2011

Sec. 2. **HUMAN SERVICES**

Subdivision 1. **Total Appropriation**

**\$130,860,000**                      **\$131,947,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
General	<u>118,352,000</u>	<u>118,358,000</u>
Child Care		
Development Fund	<u>12,508,000</u>	<u>13,589,000</u>

**Child Care and Development Fund Unexpended Balance.** (a) The commissioner shall determine the unexpended balance of the federal Child Care and Development Fund (CCDF) for the basic sliding fee child care program by February 28, 2009. The balance must first be used to fund programs described in paragraph (b) and the remainder must be available for the basic sliding fee child care under Minnesota Statutes, section 119B.03.

(b) Notwithstanding Minnesota Statutes, section 119B.03, subdivision 6b, and Minnesota Rules, part 3400.0060, subpart 4, the commissioner shall transfer to the commissioner of education \$500,000 in fiscal year 2010 and \$500,000 in fiscal year 2011 for the purposes of after-school community learning grants under Minnesota Statutes, section 124D.2211. Any funds unexpended in fiscal year 2010 may be used in fiscal year 2011. The commissioner shall transfer to the commissioner of education \$500,000 in fiscal year 2010 and \$500,000 in fiscal year 2011 for the words work program under Minnesota Statutes, section 119A.50, subdivision 3, paragraph (a). Any unexpended funds in fiscal year 2010 may be used in fiscal year 2011. The commissioner shall ensure that all transferred funds are expended according to federal child care and development fund regulations.

Subd. 2. **Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) **MFIP Child Care Assistance Grants**

74,209,000                      74,393,000

**Child care assistance provider rates.** \$2,112,000 in fiscal year 2010 and \$2,067,000 in fiscal year 2011 are from the federal child care development fund from American Recovery and

Reinvestment Act of 2009, Public Law 111-5, funds to the commissioner of human services consistent with federal regulations for the purpose of child care assistance provider rate increases under Minnesota Statutes, section 119B.13, subdivision 1. This is a onetime appropriation. Any unexpended balance the first year is available in the second year. From the child care development fund, the base appropriations are increased by \$286,000 in fiscal year 2012 and by \$140,000 in fiscal year 2013.

**Provider rate differential.** \$31,000 in fiscal year 2010 and \$66,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services for the purposes of the provider rate differential under Minnesota Statutes, section 119B.13, subdivision 3a.

**School readiness service agreements.** \$406,000 in fiscal year 2010 and \$406,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**(b) Basic Sliding Fee Child Care Assistance Grants**

53,862,000

53,755,000

**Child care assistance provider rates.** \$1,322,000 in fiscal year 2010 and \$1,435,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of child care assistance provider rate increases under Minnesota Statutes, section 119B.13, subdivision 1. This is a onetime appropriation. Any unexpended balance the first year is available in the second year. From the child care development fund, the base appropriations are increased by \$250,000 in fiscal year 2012 and by \$142,000 in fiscal year 2013.

**Provider Rate Differential.** \$33,000 in fiscal year 2010 and \$68,000 in fiscal year 2011 are from the federal child care development fund from American Recovery and Reinvestment Act of 2009, Public Law 111-5, funds to the commissioner of human services for the purposes of the provider rate differential under Minnesota Statutes, section 119B.13, subdivision 3a.

**School readiness service agreements.** \$261,000 in fiscal year 2010 and \$261,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.



**Basic sliding fee.** \$7,045,000 in fiscal year 2010 and \$6,974,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of basic sliding fee child care assistance under Minnesota Statutes, section 119B.03. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Base adjustment.** The general fund base is increased by \$180,000 in fiscal year 2012 and \$178,000 in fiscal year 2013.

**(c) Child Care Development Grants**

2,679,000

3,695,000

**Family, friends, and neighbor grants.** \$375,000 in fiscal year 2010 and \$375,000 in fiscal year 2011 are from the child care development fund required targeted funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services for family, friends, and neighbor grants under Minnesota Statutes, section 119B.232. This appropriation may be used on programs receiving family, friends, and neighbor grant funds as of June 30, 2009, or on new programs or projects. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Voluntary quality rating system training, coaching, consultation, and supports.** \$633,000 in fiscal year 2010 and \$633,000 in fiscal year 2011 are from the federal child care development fund required targeted funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of providing grants to provide statewide child-care provider training, coaching, consultation, and supports to prepare for the voluntary Minnesota quality rating system rating tool. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Voluntary quality rating system.** \$184,000 in fiscal year 2010 and \$1,200,000 in fiscal year 2011 are from the federal child care development fund required targeted funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of implementing the voluntary Parent Aware quality star rating system pilot in coordination with the Minnesota Early Learning Foundation. The appropriation for the first year is to complete and promote the voluntary Parent Aware quality rating system pilot program through June 30, 2010, and the appropriation for the second year is to continue the voluntary Minnesota quality rating system pilot through June 30, 2011. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

(d) **Children and Economic Assistance Administration** 106,000 104,000

School readiness service agreements. \$106,000 in fiscal year 2010 and \$104,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation.

(e) **Children and Economic Assistance Operations** 4,000 0

\$4,000 in fiscal year 2010 is for systems costs.

**(f) Spending Directions**

The commissioner must expend federal child care development funds, including the federal stimulus within federal expenditure timelines to the extent necessary to meet legislative appropriations and maximize the use of federal funds.

Sec. 3. Minnesota Statutes 2008, section 119B.09, subdivision 7, is amended to read:

Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, or chapter 256J.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.035. Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or DWP participants in employment and training services is effective the date of commencement of the services or the date of MFIP or DWP eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

(c) Notwithstanding paragraph (b), payment of child care assistance for participants eligible under section 119B.05 may only be made retroactively for a maximum of six months from the date of application for child care assistance.

**EFFECTIVE DATE.** This section is effective October 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning July 1, ~~2006~~ 2009, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund shall be the rate for like-care arrangements in the county effective ~~January 1, 2006~~ July 1, 2008, increased by ~~six~~ two percent ~~through the end of fiscal year 2011.~~

~~(b) Rate changes shall be implemented for services provided in September 2006 unless a participant eligibility redetermination or a new provider agreement is completed between July 1, 2006, and August 31, 2006.~~

~~As necessary, appropriate notice of adverse action must be made according to Minnesota Rules, part 3400.0185, subparts 3 and 4.~~

~~New cases approved on or after July 1, 2006, shall have the maximum rates under paragraph (a), implemented immediately.~~

~~(e)~~ (b) Every year, the commissioner shall survey rates charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in counties. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

~~(d)~~ (c) A rate which includes a special needs rate paid under subdivision 3 or under a school readiness service agreement paid under section 119B.231, may be in excess of the maximum rate allowed under this subdivision.

~~(e)~~ (d) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and disability care.

~~(f)~~ (e) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

~~(g)~~ (f) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

Sec. 5. Minnesota Statutes 2008, section 119B.13, subdivision 3a, is amended to read:

Subd. 3a. **Provider rate differential for accreditation quality.** A family child care provider or child care center shall be paid a 15 percent differential above the maximum rate established in subdivision 1, up to the actual provider rate, if the provider or center holds a current early childhood development credential, has received a 3 or 4 star rating on the Parent Aware star rating tool, or is accredited. For a family child care provider, early childhood development credential and accreditation includes an individual who has earned a child development associate degree, a child development associate credential, a diploma in child development from a Minnesota state technical college, or a bachelor's or post baccalaureate degree in early childhood education from an accredited college or university, or who is accredited by the National Association for Family Child Care or the Competency Based Training and Assessment Program. For a child care center, accreditation includes accreditation by the National Association for the Education of Young Children, the Council on Accreditation, the National Early Childhood Program Accreditation, the National School-Age Care Association, or the National Head Start Association Program of Excellence. For Montessori programs, accreditation includes the American Montessori Society, Association of Montessori International-USA, or the National Center for Montessori Education.

**EFFECTIVE DATE.** This section is effective November 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 119B.13, subdivision 6, is amended to read:

Subd. 6. **Provider payments.** (a) Counties or the state shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses.

(b) If payments for child care assistance are made to providers, the provider shall bill the county for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, a county or the state shall issue payment to the provider of child care under the child care fund within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(c) ~~All bills~~ If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A county may pay a bill submitted more than 60 days after the last date of service if the provider shows good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. A county may not pay any bill submitted more than a year after the last date of service on the bill.

(d) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

~~(d)~~ (e) A county may stop payment issued to a provider or may refuse to pay a bill submitted by a provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms; or

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms.

~~(e)~~ (f) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

**EFFECTIVE DATE.** This section is effective October 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 119B.21, subdivision 5, is amended to read:

Subd. 5. **Child care services grants.** (a) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants for:

(1) creating new licensed child care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) improving licensed child care facility programs;

(3) staff training and development services including, but not limited to, in-service training, curriculum development, accreditation, certification, consulting, resource centers, program and resource materials, supporting effective teacher-child interactions, child-focused teaching, and content-driven classroom instruction;

(4) interim financing;

(5) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

(6) emergency assistance for child care programs;

(7) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; and

(8) targeted recruitment initiatives to expand and build the capacity of the child care system and to improve the quality of care provided by legal nonlicensed child care providers.

(b) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants to:

- (1) licensed providers;
- (2) providers in the process of being licensed;
- (3) corporations or public agencies that develop or provide child care services;
- (4) school-age care programs;
- (5) legal nonlicensed or family, friend, and neighbor care providers; or
- (6) any combination of clauses (1) to (5).

(c) A recipient of a child care services grant for facility improvements, interim financing, or staff training and development must provide a 25 percent local match.

(d) Beginning July 1, 2009, grants under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1) to (3) and (7).

Sec. 8. Minnesota Statutes 2008, section 119B.21, subdivision 10, is amended to read:

Subd. 10. **Family child care technical assistance grants.** (a) A child care resource and referral organization designated under section 119B.19, subdivision 1a, may award technical assistance grants of up to \$1,000. These grants may be used for:

- (1) facility improvements, including, but not limited to, improvements to meet licensing requirements;
- (2) improvements to expand a child care facility or program;
- (3) toys, materials, and equipment to improve the learning environment;
- (4) technology and software to create, enhance, and maintain business management systems;
- (5) start-up costs;
- (6) staff training and development; and
- (7) other uses approved by the commissioner.

(b) A child care resource and referral program may award family child care technical assistance grants to:

- (1) licensed family child care providers;

- (2) child care providers in the process of becoming licensed; or
- (3) legal nonlicensed or family, friend, and neighbor care providers.
- (c) A local match is not required for a family child care technical assistance grant.

(d) Beginning July 1, 2009, grants under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1), (3), and (6).

Sec. 9. Minnesota Statutes 2008, section 119B.231, subdivision 2, is amended to read:

Subd. 2. **Provider eligibility.** (a) To be considered for an SRSA, a provider shall apply to the commissioner or have been chosen as an SRSA provider prior to June 30, 2009, and have complied with all requirements of the SRSA agreement. Priority for funds is given to providers who had agreements prior to June 30, 2009. If sufficient funds are available, the commissioner shall make applications available to additional providers. To be eligible to apply for an SRSA, a provider shall:

- (1) be eligible for child care assistance payments under chapter 119B;
- (2) have at least 25 percent of the children enrolled with the provider subsidized through the child care assistance program;
- (3) provide full-time, full-year child care services; and
- (4) ~~serve at least one child who is subsidized through the child care assistance program and who is expected to enter kindergarten within the following 30 months~~ have obtained a level 3 or 4 star rating under the voluntary Parent Aware quality rating system.

(b) The commissioner may waive the 25 percent requirement in paragraph (a), clause (2), if necessary to achieve geographic distribution of SRSA providers and diversity of types of care provided by SRSA providers.

(c) An eligible provider who would like to enter into an SRSA with the commissioner shall submit an SRSA application. To determine whether to enter into an SRSA with a provider, the commissioner shall evaluate the following factors:

- (1) ~~the qualifications of the provider and the provider's staff~~ provider's Parent Aware rating score;
- (2) ~~the provider's staff child ratios;~~
- (3) ~~the provider's curriculum;~~
- (4) ~~the provider's current or planned parent education activities;~~
- (5) ~~(2)~~ the provider's current or planned social service and employment linkages;
- (6) ~~the provider's child development assessment plan;~~
- (7) ~~(3)~~ the geographic distribution needed for SRSA providers;
- (8) ~~(4)~~ the inclusion of a variety of child care delivery models; and
- (9) ~~(5)~~ other related factors determined by the commissioner.

Sec. 10. Minnesota Statutes 2008, section 119B.231, subdivision 3, is amended to read:

Subd. 3. **Family and child eligibility.** (a) A family eligible to choose an SRSA provider for their children shall:

(1) be eligible to receive child care assistance under any provision in chapter 119B except section 119B.035;

(2) be in an authorized activity for an average of at least 35 hours per week when initial eligibility is determined; and

(3) include a child who has not yet entered kindergarten.

(b) A family who is determined to be eligible to choose an SRSA provider remains eligible to be paid at a higher rate through the SRSA provider when the following conditions exist:

(1) the child attends child care with the SRSA provider a minimum of 25 hours per week, on average;

(2) the family has a child who has not yet entered kindergarten; and

(3) the family maintains eligibility under chapter 119B except section 119B.035.

(c) ~~For the 12 months~~ After initial eligibility has been determined, a decrease in the family's authorized activities to an average of less than 35 hours per week does not result in ineligibility for the SRSA rate. A family must continue to maintain eligibility under this chapter and be in an authorized activity.

(d) A family that moves between counties but continues to use the same SRSA provider shall continue to receive SRSA funding for the increased payments.

Sec. 11. Minnesota Statutes 2008, section 119B.231, subdivision 4, is amended to read:

Subd. 4. **Requirements of providers.** An SRSA must include assessment, evaluation, and reporting requirements that promote the goals of improved school readiness and movement toward appropriate child development milestones. A provider who enters into an SRSA shall comply with all SRSA requirements, including the assessment, evaluation, and reporting requirements in the SRSA. Providers who have been selected previously for SRSAs must begin the process to obtain a rating using Parent Aware according to timelines established by the commissioner. If the initial Parent Aware rating is less than three stars, the provider must submit a plan to improve the rating. If a 3 or 4 star rating is not obtained within established timelines, the commissioner may consider continuation of the agreement, depending upon the progress made and other factors. Providers who apply and are selected for a new SRSA agreement on or after July 1, 2009, must have a level 3 or 4 star rating under the voluntary Parent Aware quality rating system at the time the SRSA agreement is signed.

Delete the title and insert:

"A bill for an act relating to early childhood education and child care; making changes to early childhood education; youth prevention; self-sufficiency and lifelong learning; child care assistance; appropriating money; amending Minnesota Statutes 2008, sections 119A.52; 119B.09, subdivision 7; 119B.13, subdivisions 1, 3a, 6; 119B.21, subdivisions 5, 10; 119B.231, subdivisions 2, 3, 4; 124D.13, subdivision 13; 124D.135, subdivision 3; 124D.15, subdivisions 1, 3; 124D.19, subdivisions 10, 14; 124D.522; proposing coding for new law in Minnesota Statutes, chapters 4; 124D."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 2123, A bill for an act relating to environment finance; requiring waters to be monitored for endocrine disruptors and other compounds; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ENVIRONMENT AND NATURAL RESOURCES FINANCE

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this act.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$107,346,000</u>	<u>\$106,571,000</u>	<u>\$213,917,000</u>
<u>State Government Special Revenue</u>	<u>48,000</u>	<u>48,000</u>	<u>96,000</u>
<u>Miscellaneous Special Revenue</u>	<u>200,000</u>	<u>200,000</u>	<u>400,000</u>
<u>Environmental</u>	<u>70,399,000</u>	<u>70,659,000</u>	<u>141,058,000</u>
<u>Natural Resources</u>	<u>81,070,000</u>	<u>79,970,000</u>	<u>161,040,000</u>
<u>Game and Fish</u>	<u>93,942,000</u>	<u>93,792,000</u>	<u>187,734,000</u>
<u>Remediation</u>	<u>11,186,000</u>	<u>11,186,000</u>	<u>22,372,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>	<u>400,000</u>
<b><u>Total</u></b>	<b><u>\$364,391,000</u></b>	<b><u>\$362,626,000</u></b>	<b><u>\$727,017,000</u></b>

Sec. 2. **ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this act mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
2010                      2011

Sec. 3. **POLLUTION CONTROL AGENCY**

Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$92,124,000</u></b>	<b><u>\$91,884,000</u></b>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>10,591,000</u>	<u>10,091,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>
<u>Environmental</u>	<u>70,399,000</u>	<u>70,659,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

The commissioner shall require the chief financial officer or other financial staff to display the agency's budget on the agency's Web site in a manner that will allow citizens to easily understand the value they are getting for their money. The agency must have an air permit and regulatory account, water permit and regulatory account, and solid waste permit and regulatory account to track revenues and expenses.

The proposed rules increasing permit fees first noticed on June 16, 2008, are effective July 1, 2009. The agency shall adopt amended permit fee rules incorporating these permit fee increases under Minnesota Statutes, section 14.389. The commissioner shall begin collecting the increased permit fees on July 1, 2009, even if the rule adoption process has not been completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased permit fees reflecting the permit fee increases in this section and the rule amendments incorporating those permit fee increases do not require further legislative approval.

The commissioner shall adopt and implement rules in compliance with Minnesota Statutes, section 116.07, subdivision 4d, so that fees are collected beginning January 1, 2011.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the agency by June 30 each year. A recipient without an active Web site shall report to the agency by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The commissioner shall display the information received by recipients under this paragraph on the agency's Web site.

Subd. 2. **Water**

33,752,000

33,252,000

Appropriations by Fund

<u>General</u>	<u>7,583,000</u>	<u>7,083,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>
<u>Environmental</u>	<u>26,121,000</u>	<u>26,121,000</u>

\$1,498,000 the first year and \$1,498,000 the second year are for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater according to Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Funds from this appropriation may not be used to purchase or use pesticides suspected of being endocrine disruptors. Any restoration conducted with money from this appropriation must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination. Any balance remaining in the first year does not cancel and is available for the second year.

\$2,324,000 the first year and \$2,324,000 the second year must be distributed as grants to delegated counties to administer the county feedlot program. Distribution of funds must be as provided in Laws 2005, First Special Session chapter 1, article 2, section 2, subdivision 2. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, may use up to five percent of the annual appropriation for initiatives that will reduce feedlot-related pollution hazards. Any money remaining after the first year is available for the second year.

\$335,000 the first year and \$335,000 the second year are for community technical assistance and education, including grants and technical assistance to communities for local and basinwide water quality protection.

\$550,000 the first year and \$550,000 the second year are for challenge grants to counties for subsurface sewage treatment system (SSTS) inventories that will determine the number of systems that are failing or that pose an imminent health threat and are located on riparian land or a lake or near wetlands or other sensitive waters. Counties must provide a nonstate match of at least 50 percent that may be in cash or in kind. The commissioner shall, by county, report: the number of systems evaluated, the number of systems determined to be failing or that pose an imminent health threat located on riparian land or a lake or near wetlands or other sensitive waters, the number replaced or soon to be replaced, and the gallons

of sewage that are prevented from threatening waters. The commissioner shall develop recommendations and a plan for directly or indirectly inspecting and providing an inventory for all subsurface sewage treatment systems and submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance no later than September 15, 2010. Direct inspection methods shall include field verification of each SSTS on riparian land or a lake or near wetlands or other sensitive waters to determine the owner, location, and which systems are failing or are an imminent health threat. Indirect inspection methods may include census-type data collection to determine the owner and location of each SSTS in the remaining portion of each county. An SSTS with a valid certificate of compliance may be considered inventoried without further work.

\$405,000 the first year and \$405,000 the second year are for subsurface sewage treatment system (SSTS) administration and grants. Of this amount, \$86,000 each year is for assistance to counties through grants for SSTS program administration. Any unexpended balance in the first year does not cancel but is available in the second year.

\$740,000 the first year and \$740,000 the second year are from the environmental fund to address the need for continued increased activity in the areas of new technology review, technical assistance for local governments, and enforcement under Minnesota Statutes, sections 115.55 to 115.58, and to complete the requirements of Laws 2003, chapter 128, article 1, section 165. Of this amount, \$48,000 each year is for administration of individual septic tank fees, as provided in this article.

\$100,000 the first year and the \$100,000 second year are for a grant to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North and shall enhance student understanding of the causes of flooding, flood prevention, and the impacts of flood waters on land and water resources. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative committees with jurisdiction over the environment and natural resources policy and finance and K-12 policy and finance by February 15, 2011.

\$7,540,000 the first year and \$7,540,000 the second year are for completion of 20 percent of the needed statewide assessments of surface water quality and trends.

\$500,000 the first year is to develop minimal impact design standards for urban storm water runoff. This is a onetime appropriation and is available until June 30, 2011. The commissioner shall report to the chairs and ranking minority

members of the legislative committees and divisions having primary jurisdiction over environment and natural resources policy and finance no later than January 12, 2011, regarding the expenditure of this appropriation.

By October 1 each year, the commissioner shall report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the effectiveness of enforcement actions in the previous fiscal year in preventing water pollution.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts for clean water partnership, SSTS's, surface water and groundwater assessments, total maximum daily loads, stormwater, and local basinwide water quality protection in this subdivision are available until June 30, 2013.

Subd. 3. Air

11,871,000

12,131,000

Up to \$150,000 the first year and \$150,000 the second year may be transferred from the environmental fund to the small business environmental improvement loan account established in Minnesota Statutes, section 116.993.

\$200,000 the first year and \$200,000 the second year are from the environmental fund for a monitoring program under Minnesota Statutes, section 116.454.

\$125,000 the first year and \$125,000 the second year are from the environmental fund for monitoring ambient air for hazardous pollutants in the metropolitan area.

An agency report on the level of fine particulate matter in Minnesota's air must compare measured levels with a 24-hour PM 2.5 standard of 13 to 14 micrograms per cubic meter and an annual PM 2.5 standard of 30 to 35 micrograms per cubic meter, as recommended by the Particulate Matter Review Panel of the Environmental Protection Agency's Clean Air Scientific Advisory Committee in its June 2005 report, EPA's Review of the National Ambient Air Quality Standards for Particulate Matter (Second Draft PM Staff Paper, January 2005).

Subd. 4. Land

18,502,000

18,502,000

Appropriations by Fund

<u>General</u>	<u>500,000</u>	<u>500,000</u>
<u>Environmental</u>	<u>6,916,000</u>	<u>6,916,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the Pollution Control Agency and agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (6), and (7). At the beginning of each fiscal year, the two commissioners shall jointly submit an annual spending plan to the commissioner of finance that maximizes the utilization of resources and appropriately allocates the money between the two departments. This appropriation is available until June 20, 2011.

\$3,616,000 the first year and \$3,616,000 the second year are from the petroleum tank fund to be transferred to the remediation fund for purposes of the leaking underground storage tank program to protect the land.

\$252,000 the first year and \$252,000 the second year are from the remediation fund to be transferred to the Department of Health for private water supply monitoring and health assessment costs in areas contaminated by unpermitted mixed municipal solid waste disposal facilities and drinking water advisories and public information activities for areas contaminated by hazardous releases.

\$500,000 each year is for environmental health tracking and biomonitoring of a representative sample of the population including indigenous people and people of color. Of this amount, \$450,000 each year is for transfer to the Department of Health.

**Subd. 5. Environmental Assistance and Cross-Media**

26,605,000

26,605,000

Appropriations by Fund

<u>General</u>	<u>1,114,000</u>	<u>1,114,000</u>
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<u>Environmental</u>	<u>25,491,000</u>	<u>25,491,000</u>
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\$14,500,000 each year is from the environmental fund for SCORE block grants to counties.

\$500,000 the first year and \$500,000 the second year are from the environmental fund for composting grants under Minnesota Statutes, section 115A.559, and are available until June 30, 2011. This amount is added to the agency base.

Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

All money deposited in the environmental fund for the metropolitan solid waste landfill fee in accordance with Minnesota Statutes, section 473.843, and not otherwise appropriated, is appropriated for the purposes of Minnesota Statutes, section 115B.39.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as contracts or grants for surface water and groundwater assessments; environmental assistance awarded under Minnesota Statutes, section 115A.0716; technical and research assistance under Minnesota Statutes, section 115A.152; technical assistance under Minnesota Statutes, section 115A.52; and pollution prevention assistance under Minnesota Statutes, section 115D.04, are available until June 30, 2013.

Before the governor makes budget recommendations to the legislature in 2011, the commissioner must report on revenues received and expenditures made under Minnesota Statutes, section 115A.1314, subdivision 2, during fiscal years 2010 and 2011 to determine if fees collected are covering the costs of the program.

Subd. 6. **Administrative Support** 1,394,000 1,394,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	1,394,000	1,394,000

The commissioner may transfer money from the environmental fund to the remediation fund as necessary for the purposes of the remediation fund under Minnesota Statutes, section 116.155, subdivision 2.

Sec. 4. **NATURAL RESOURCES**

Subdivision 1. **Total Appropriation** **\$246,232,000** **\$244,982,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	75,980,000	75,980,000
<u>Natural Resources</u>	76,010,000	74,910,000
<u>Game and Fish</u>	93,942,000	93,792,000
<u>Remediation</u>	100,000	100,000
<u>Permanent School</u>	200,000	200,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

To the extent possible, any restoration conducted with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the department by June 30 each year. A recipient without an active Web site shall report to the department by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The commissioner shall display the information received by recipients under this paragraph on the department's Web site.

The commissioner shall require the chief financial officer or other financial staff to display the department's budget on the department's Web site in a manner that will allow citizens to easily understand the value they are getting for their money.

**Subd. 2. Land and Mineral Resources Management**

10,398,000

10,398,000

Appropriations by Fund

<u>General</u>	<u>3,351,000</u>	<u>3,351,000</u>
<u>Natural Resources</u>	<u>5,461,000</u>	<u>5,461,000</u>
<u>Game and Fish</u>	<u>1,386,000</u>	<u>1,386,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

\$1,202,000 the first year and \$1,202,000 the second year are from the mining administration account in the natural resources fund to cover the costs associated with issuing mining permits.

\$612,000 each year is from the dedicated receipts account in the natural resources fund to cover the costs associated with issuing licenses for land and water crossings and road easements.

\$351,000 the first year and \$351,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund. \$175,500 the first year and \$175,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,696,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c), for mineral resource management, projects to enhance future mineral income, and projects to promote new mineral resource opportunities.

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

**Subd. 3. Water Resources Management**

11,772,000

11,772,000

Appropriations by Fund

<u>General</u>	<u>11,492,000</u>	<u>11,492,000</u>
<u>Natural Resources</u>	<u>280,000</u>	<u>280,000</u>

\$11,109,000 the first year and \$11,109,000 the second year are for:

(1) public waters protection by managing and regulating activities through floodplain management, shoreland management, public waters permitting, and outreach and education;

(2) water supply management by ensuring appropriate sources of water are available for current and future generations through water appropriation permitting, public water supply planning, and water use reporting; and

(3) hydrologic information that supports decision making by providing technical services through technical surface water and groundwater studies, dam safety and maintenance, regional hydrogeologic assessments, lake level monitoring, stream flow monitoring, ground water monitoring, surveying, climatology, and environmental review.

By January 15, 2010, the commissioner shall submit a report evaluating and recommending options to provide for the long-term protection of the state's surface water and groundwater resources and the funding of programs to provide this protection.



\$280,000 the first year and \$280,000 the second year are for grants for up to 50 percent of the cost of implementation of the Red River mediation agreement. The commissioner shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with the grants by January 15, 2012.

\$103,000 the first year and \$103,000 the second year are to assist the Red River Watershed Management Board and watershed districts in constructing flood protection farmstead ring levees in the Red River watershed. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

By October 1, 2009, the commissioner shall develop a plan for the development of an adequate groundwater level monitoring network of wells in the 11-county metropolitan area. The commissioner, working with the Metropolitan Council and the commissioner of the Pollution Control Agency, shall design the network so that the wells can be used to identify threats to groundwater quality and institute practices to protect the groundwater from degradation. The network must be sufficient to ensure that water use in the metropolitan area does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs. The plan should include recommendations on the necessary payment rates for users of the system expressed in cents per gallon for well drilling, operation, and maintenance.

**Subd. 4. Forest Management**

39,359,000

38,259,000

Appropriations by Fund

<u>General</u>	<u>25,952,000</u>	<u>25,952,000</u>
<u>Natural Resources</u>	<u>12,193,000</u>	<u>11,093,000</u>
<u>Game and Fish</u>	<u>1,214,000</u>	<u>1,214,000</u>

\$2,000,000 each year is to maintain forest management operations. This is a onetime appropriation.

\$500,000 the first year and \$500,000 the second year are reductions in the private forest landowner assistance program.

\$950,000 the first year and \$950,000 the second year are from the heritage enhancement account in the game and fish fund to maintain and expand the ecological classification system program on state forest lands and prevent the introduction and spread of invasive species on state lands. This is a onetime appropriation.

\$7,217,000 the first year and \$7,217,000 the second year are for prevention, presuppression, and suppression costs of emergency firefighting and other costs incurred under Minnesota Statutes, section 88.12. If the appropriation for either year is insufficient to cover all costs of presuppression and suppression, the amount necessary to pay for these costs during the biennium is appropriated from the general fund.

By November 15 of each year, the commissioner of natural resources shall submit a report to the chairs of the house and senate committees and divisions having jurisdiction over environment and natural resources finance, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. These appropriations may not be transferred. Any reimbursement of firefighting expenditures made to the commissioner from any source other than federal mobilizations shall be deposited into the general fund.

\$12,193,000 the first year and \$11,093,000 the second year are from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

\$780,000 the first year and \$780,000 the second year are for the Forest Resources Council for implementation of the Sustainable Forest Resources Act.

**Subd. 5. Parks and Trails Management**

68,322,000

68,322,000

Appropriations by Fund

<u>General</u>	<u>23,207,000</u>	<u>23,207,000</u>
<u>Natural Resources</u>	<u>42,921,000</u>	<u>42,921,000</u>
<u>Game and Fish</u>	<u>2,194,000</u>	<u>2,194,000</u>

\$1,400,000 the first year and \$1,400,000 the second year are from the water recreation account in the natural resources fund for enhancing public water access facilities. Of this amount, \$100,000 is a onetime appropriation to provide downloadable GPS coordinates and river gauge data interpretation. The base appropriation is \$1,300,000.

The appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 6, from the water recreation account in the natural resources fund for a cooperative project with the United States Army Corps of Engineers to develop the Mississippi Whitewater Park is available until June 30, 2011. The project must be designed to prevent the spread of aquatic invasive species.

\$3,996,000 the first year and \$3,996,000 the second year are from the natural resources fund for state park and recreation area operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

\$8,424,000 the first year and \$8,424,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for the snowmobile grants-in-aid program. This additional money may be used for new grant-in-aid trails. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$400,000 the first year and \$400,000 the second year are from the snowmobile account in the natural resources fund for operation and maintenance of state trails and increased oversight and training for the grant-in-aid program. This is a onetime appropriation.

\$1,360,000 the first year and \$1,360,000 the second year are from the natural resources fund for the off-highway vehicle grants-in-aid program. Of this amount, \$1,110,000 each year is from the all-terrain vehicle account; \$150,000 each year is from the off-highway motorcycle account; and \$100,000 each year is from the off-road vehicle account. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$760,000 the first year and \$760,000 the second year are from the natural resources fund for state trail operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

**Subd. 6. Fish and Wildlife Management**

68,557,000

68,407,000

Appropriations by Fund

<u>General</u>	<u>2,323,000</u>	<u>2,323,000</u>
<u>Natural Resources</u>	<u>2,096,000</u>	<u>2,096,000</u>
<u>Game and Fish</u>	<u>64,138,000</u>	<u>63,988,000</u>

\$220,000 the first year and \$220,000 the second year are from the nongame wildlife account in the natural resources fund for gray wolf management and research.

\$285,000 the first year and \$285,000 the second year are from the walleye stamp account in the game and fish fund for the purposes specified under Minnesota Statutes, section 97A.075, subdivision 6.

\$600,000 the first year and \$600,000 the second year are to accelerate wildlife health programs. This is a onetime appropriation.

\$1,860,000 the first year and \$1,860,000 the second year are from the wildlife acquisition surcharge account for only the purposes specified in Minnesota Statutes, section 97A.071, subdivision 2a. This appropriation is available until spent.

\$8,167,000 the first year and \$8,167,000 the second year are from the heritage enhancement account in the game and fish fund only for activities specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). Of this amount, at least 80 percent must be used to purchase or restore land, and of this, over half must be used for restoration. Notwithstanding Minnesota Statutes, section 297A.94, five percent of this appropriation may be used for expanding hunter and angler recruitment and retention. This appropriation may be used to leverage other funds and to provide fish and wildlife technical assistance for shallow lake management and restoration and stream and lake shoreland and habitat improvement and maintenance on private lands.

Notwithstanding Minnesota Statutes, section 84.943, \$13,000 the first year and \$13,000 the second year from the critical habitat private sector matching account may be used to publicize the critical habitat license plate match program.

\$830,000 the first year and \$830,000 the second year are from the trout and salmon management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 3.

\$1,553,000 the first year and \$1,553,000 the second year are from the deer habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (b).

\$890,000 the first year and \$890,000 the second year are from the deer and bear management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (c).

\$700,000 the first year and \$700,000 the second year are from the waterfowl habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 2.

\$925,000 the first year and \$925,000 the second year are from the pheasant habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 4.

\$192,000 the first year and \$192,000 the second year are from the wild turkey management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 5. Of this amount, \$8,000 the first year and \$8,000 the second year are appropriated from the game and fish fund for transfer to the wild turkey management account for purposes specified in Minnesota Statutes, section 97A.075, subdivision 5.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2011, for aquatic restoration grants and wildlife habitat grants are available until June 30, 2012.

**Subd. 7. Ecological Services**

14,475,000

14,475,000

Appropriations by Fund

<u>General</u>	<u>6,530,000</u>	<u>6,530,000</u>
<u>Natural Resources</u>	<u>3,994,000</u>	<u>3,994,000</u>
<u>Game and Fish</u>	<u>3,951,000</u>	<u>3,951,000</u>

\$1,223,000 the first year and \$1,223,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management. Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame information, education, and promotion.

\$1,636,000 the first year and \$1,636,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$2,142,000 the first year and \$2,142,000 the second year are from the invasive species account and \$500,000 each year is appropriated from the game and fish fund to the invasive species account for management, public awareness, assessment and monitoring research, law enforcement, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands. Funds from this appropriation may not be used to purchase or use pesticides suspected of being endocrine disruptors.

**Subd. 8. Enforcement**

31,519,000

31,519,000

Appropriations by Fund

<u>General</u>	<u>2,918,000</u>	<u>2,918,000</u>
<u>Natural Resources</u>	<u>8,531,000</u>	<u>8,531,000</u>

<u>Game and Fish</u>	<u>19,970,000</u>	<u>19,970,000</u>
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<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>
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\$1,082,000 the first year and \$1,082,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety.

\$315,000 the first year and \$315,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for grants to local law enforcement agencies for snowmobile enforcement activities.

\$1,164,000 the first year and \$1,164,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$510,000 the first year and \$510,000 the second year are from the natural resources fund for grants to county law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use in the county. Of this amount, \$498,000 each year is from the all-terrain vehicle account; \$11,000 each year is from the off-highway motorcycle account; and \$1,000 each year is from the off-road vehicle account. The county enforcement agencies may use money received under this appropriation to make grants to other local enforcement agencies within the county that have a high concentration of off-highway vehicle use. Of this appropriation, \$25,000 each year is for administration of these grants.

**Subd. 9. Operations Support**

1,830,000

1,830,000

Appropriations by Fund

<u>General</u>	<u>207,000</u>	<u>207,000</u>
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<u>Natural Resources</u>	<u>534,000</u>	<u>534,000</u>
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<u>Game and Fish</u>	<u>1,089,000</u>	<u>1,089,000</u>
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The commissioner may redirect the general fund reduction of \$1,933,000 in fiscal year 2010 and \$1,933,000 in fiscal year 2011, to other subdivisions of this section. No grants may be reduced. The commissioner shall report by October 1, 2011, to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance regarding any redirection and what department outcomes were affected by the redirection.

\$320,000 the first year and \$320,000 the second year are from the natural resources fund for grants to be divided equally between the city of St. Paul for the Como Zoo and Conservatory and the city of Duluth for the Duluth Zoo. This appropriation is from the revenue deposited to the fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 5. **BOARD OF WATER AND SOIL RESOURCES**

**\$16,693,000**

**\$16,418,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
General	<u>16,493,000</u>	<u>16,218,000</u>

\$3,856,000 the first year and \$3,856,000 the second year are for natural resources block grants to local governments. The board may reduce the amount of the natural resources block grant to a county by an amount equal to any reduction in the county's general services allocation to a soil and water conservation district from the county's previous year allocation when the board determines that the reduction was disproportionate. Grants must be matched with a combination of local cash or in-kind contributions. The base grant portion related to water planning must be matched by an amount as specified by Minnesota Statutes, section 103B.3369.

\$3,506,000 the first year and \$3,506,000 the second year are for grants requested by soil and water conservation districts for general purposes, nonpoint engineering, and implementation of the reinvest in Minnesota conservation reserve program. Upon approval of the board, expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts. Any district requesting a grant under this paragraph shall maintain a Web page that publishes, at a minimum, its annual plan, annual report, annual audit, and annual budget, including membership dues and meeting notices and minutes.

\$500,000 the first year and \$500,000 the second year are for feedlot water quality grants for feedlots under 300 animal units where there are impaired waters.

\$1,169,000 the first year and \$1,169,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control and related water quality management.

\$1,200,000 the first year and \$1,200,000 the second year are for grants for cost sharing contracts to establish and maintain vegetation buffers and restored native prairie.

\$200,000 the first year and \$200,000 the second year are available for county cooperative weed management programs and to restore native plants in selected invasive species management sites by providing local native seeds and plants to landowners for implementation. This appropriation is available until expended. If the appropriation in either year is insufficient, the appropriation in the other year is available for it. Any unencumbered balance in the board's program of grants does not cancel at the end of the first year and is available for the second year for the same grant program. Notwithstanding Minnesota Statutes, section 103C.501, a balance in the board's cost-share program is available for \$150,000 each year for evaluating and reporting on performance, financial, and activity information of local water management entities as provided for in Minnesota Statutes, section 103B.102. Notwithstanding Minnesota Statutes, section 103C.501, the board may shift cost-share funds in this section and may adjust the technical and administrative assistance portion of the grant funds to leverage federal or other nonstate funds or to address high-priority needs identified in local water management plans.

\$500,000 the first year and \$500,000 the second year are for implementation and enforcement of the Wetland Conservation Act. The board must make available information about these activities on the board's Web site.

\$60,000 each year is for staff to monitor and enforce wetland replacement, wetland bank sites, and the Wetland Conservation Act. The board must include in its biennial report to the legislature information on all state and local units of government, including special purpose districts and impacts on wetlands in the state. This information must be made available on the board's Web site.

\$340,000 the first year and \$340,000 the second year are for cost-share grants to local governments for public drainage records modernization.

\$212,000 in each year is to provide assistance to local drainage management officials and for the costs of the Drainage Work Group.

\$90,000 the first year and \$90,000 the second year are for a grant to the Red River Basin Commission for water quality and floodplain management, including administration of programs. The commission shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with this appropriation by January 15, 2012. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.



\$90,000 each year is to the Minnesota River Basin Joint Powers Board, also known as the Minnesota River Board, for operating expenses to measure and report the results of projects in the 12 major watersheds within the Minnesota River basin. This amount may be matched by nonstate funds. The board shall submit a report to the chairs of the legislative committees with jurisdiction over environment and natural resources policy and finance on a plan to transition to self-sufficiency.

\$136,000 the first year and \$136,000 the second year are for a grant to Area II, Minnesota River Basin Projects, for floodplain management, including administration of programs.

The appropriations for grants in this section are available until expended. If an appropriation for grants in either year is insufficient, the appropriation in the other year is available for it.

To the extent possible, any restoration conducted with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the board by June 30 each year. A recipient without an active Web site shall report to the board by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The board shall display the information received by recipients under this paragraph on the board's Web site.

The board shall require the chief financial officer or other financial staff to display the board's budget on the board's Web site in a manner that will allow citizens to easily understand the value they are getting for their money.

Sec. 6. **METROPOLITAN COUNCIL**

**\$8,377,000**

**\$8,377,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>3,807,000</u>	<u>3,807,000</u>
<u>Natural Resources</u>	<u>4,570,000</u>	<u>4,570,000</u>

\$3,807,000 the first year and \$3,807,000 the second year are for metropolitan area regional parks operation and maintenance according to Minnesota Statutes, section 473.351.

\$4,570,000 the first year and \$4,570,000 the second year are from the natural resources fund for metropolitan area regional parks and trails maintenance and operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (3).

Sec. 7. **MINNESOTA CONSERVATION CORPS** **\$965,000** **\$965,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>475,000</u>	<u>475,000</u>
<u>Natural Resources</u>	<u>490,000</u>	<u>490,000</u>

The Minnesota Conservation Corps may receive money appropriated from the natural resources fund under this section only as provided in an agreement with the commissioner of natural resources.

Sec. 8. **ZOOLOGICAL BOARD** **\$6,839,000** **\$6,839,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>6,701,000</u>	<u>6,701,000</u>
<u>Natural Resources</u>	<u>138,000</u>	<u>138,000</u>

\$138,000 the first year and \$138,000 the second year are from the natural resources fund from the revenue deposited under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 9. **SCIENCE MUSEUM OF MINNESOTA** **\$1,187,000** **\$1,187,000**

Sec. 10. Minnesota Statutes 2008, section 84.0835, subdivision 3, is amended to read:

Subd. 3. **Citation authority.** Employees designated by the commissioner under subdivision 1 may issue citations, as specifically authorized under this subdivision, for violations of:

(1) sections 85.052, subdivision 3 (payment of camping fees in state parks), 85.45, subdivision 1 (cross-country ski pass), ~~and~~ 85.46 (horse trail pass), and 84.9275 (nonresident all-terrain vehicle state trail pass);

(2) rules relating to hours and days of operation, restricted areas, noise, fireworks, environmental protection, fires and refuse, pets, picnicking, camping and dispersed camping, nonmotorized uses, construction of unauthorized permanent trails, mooring of boats, fish cleaning, swimming, storage and abandonment of personal property, structures and stands, animal trespass, state park individual and group motor vehicle permits, licensed motor vehicles, designated roads, and snowmobile operation off trails;

(3) rules relating to off-highway vehicle registration, display of registration numbers, required equipment, operation restrictions, off-trail use for hunting and trapping, and operation in lakes, rivers, and streams;

(4) rules relating to off-highway vehicle and snowmobile operation causing damage or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

(5) rules relating to parking, snow removal, and damage on state forest roads; and

(6) rules relating to controlled hunting zones on major wildlife management units.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 11. **[84.0854] GIFT CARD AND CERTIFICATE SALES; RECEIPTS; TRANSFERS; APPROPRIATION.**

Subdivision 1. Sales authorized; gift cards and certificates. The commissioner may sell gift cards and certificates that can be used to purchase licenses, permits, products, or services sold by the commissioner. Gift cards and certificates are valid until they are redeemed. The commissioner may advertise the availability of this program and items offered for sale under this section.

Subd. 2. Receipts; disposition. Proceeds of gift card and certificate sales shall be deposited in an account in the special revenue fund. When gift cards or certificates are redeemed, funds shall be transferred to the appropriate account or fund based on the license, permit, product, or service purchased. Money in the gift card and certificate account shall accrue interest, which shall be credited to the account. Interest on funds in the account is appropriated to the commissioner to help cover the cost of administering the gift card and certificate program. Money from gift cards and certificates sold but unredeemed after three years shall be transferred to the various accounts and funds receiving revenue from purchases of licenses, permits, products, or services purchased with gift card or certificate redemptions in the last two fiscal years. Funds shall be distributed based on the dollar value of cards redeemed for the various licenses, permits, products, or services on a pro rata basis.

Subd. 3. Exemption from rulemaking. This section is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 12. Minnesota Statutes 2008, section 84.415, subdivision 5, is amended to read:

Subd. 5. **Fee Fees; disposition.** (a) In the event the construction of such lines causes damage to timber or other property of the state on or along the same, the license or permit shall also provide for payment to the commissioner of finance of the amount thereof as may be determined by the commissioner.

(b) The application fee specified in Minnesota Rules, chapter 6135, is credited to the general fund.

~~All money received under such licenses or permits~~ (c) The utility crossing fees specified in Minnesota Rules, chapter 6135, shall be credited to the fund to which other income or proceeds of sale from such land would be credited, if provision therefor be made by law, otherwise to the general fund.

(d) Money received under subdivision 6 must be deposited in the land management account in the natural resources fund. Money in the land management account of the natural resources fund is appropriated to the commissioner of natural resources to cover the costs incurred for issuing and monitoring utility licenses.

Sec. 13. Minnesota Statutes 2008, section 84.415, is amended by adding a subdivision to read:

Subd. 6. Supplemental application fee and monitoring fee. (a) In addition to the application fee and utility crossing fees specified in Minnesota Rules, chapter 6135, the commissioner of natural resources shall assess the applicant for a utility license the following fees:

(1) a supplemental application fee of \$1,500 for a public water crossing license and a supplemental application fee of \$4,500 for a public lands crossing license, to cover reasonable costs for reviewing the application and preparing the license; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the utility line and preparing special terms and conditions of the license to ensure proper construction. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(b) The applicant shall pay fees under this subdivision to the commissioner of natural resources. The commissioner shall not issue the license until the applicant has paid all fees in full.

(c) Upon completion of construction, the commissioner shall refund any remaining balance left between the fee assessed for monitoring and the amount used by the commissioner in monitoring the construction of the utility line. The commissioner shall not return the application fees, even if the application is withdrawn or denied.

Sec. 14. Minnesota Statutes 2008, section 84.63, is amended to read:

#### **84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE AND FEDERAL GOVERNMENTS.**

(a) Notwithstanding any existing law to the contrary, the commissioner of natural resources is hereby authorized on behalf of the state to convey to the United States or to the state of Minnesota or any of its subdivisions, upon state-owned lands under the administration of the commissioner of natural resources, permanent or temporary easements for specified periods or otherwise for trails, highways, roads including limitation of right of access from the lands to adjacent highways and roads, flowage for development of fish and game resources, stream protection, flood control, and necessary appurtenances thereto, such conveyances to be made upon such terms and conditions including provision for reversion in the event of non-user as the commissioner of natural resources may determine.

(b) In addition to the fee for the market value of the easement, the commissioner of natural resources shall assess the applicant the following fees:

(1) an application fee of \$2,000 to cover reasonable costs for reviewing the application and preparing the easement; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the easement and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(c) The applicant shall pay these fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

(d) Upon completion of construction, the commissioner shall refund any remaining balance left between the monitoring fee assessed and the amount used by the commissioner in monitoring the construction of the easement. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(e) Money received under paragraph (b) must be deposited in the land management account in the natural resources fund. Money in the land management account of the natural resources fund is appropriated to the commissioner of natural resources to cover the reasonable costs incurred for issuing and monitoring easements.

Sec. 15. Minnesota Statutes 2008, section 84.631, is amended to read:

**84.631 ROAD EASEMENTS ACROSS STATE LANDS.**

(a) Except as provided in section 85.015, subdivision 1b, the commissioner, on behalf of the state, may convey a road easement across state land under the commissioner's jurisdiction other than school trust land, to a private person requesting an easement for access to property owned by the person only if the following requirements are met: (1) there are no reasonable alternatives to obtain access to the property; and (2) the exercise of the easement will not cause significant adverse environmental or natural resource management impacts.

(b) The commissioner shall:

(1) require the applicant to pay the market value of the easement;

(2) provide that the easement reverts to the state in the event of nonuse; and

(3) impose other terms and conditions of use as necessary and appropriate under the circumstances.

(c) An applicant shall submit a an application fee of up to \$2,000 with each application for a road easement across state land. ~~The commissioner must give the applicant an estimate of the costs of the road easement before the applicant submits the fee.~~ The application fee is nonrefundable, even if the application is withdrawn or denied.

(d) In addition to the payment for the market value of the easement and the application fee, the commissioner of natural resources shall assess the applicant a monitoring fee to cover the projected reasonable costs for monitoring the construction of the easement and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee. The applicant shall pay the application and monitoring fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

(e) Upon completion of construction, the commissioner shall refund any remaining balance left between the monitoring fee assessed and the amount used by the commissioner in monitoring the construction of the easement.

(f) Fees collected under paragraph paragraphs (c) and (d) must be deposited in the land management account in the natural resources fund. Money in the land management account of the natural resources fund is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 16. Minnesota Statutes 2008, section 84.632, is amended to read:

**84.632 CONVEYANCE OF UNNEEDED STATE EASEMENTS.**

(a) Notwithstanding section 92.45, the commissioner of natural resources may, in the name of the state, release all or part of an easement acquired by the state upon application of a landowner whose property is burdened with the easement if the easement is not needed for state purposes.

(b) All or part of an easement may be released by payment of ~~consideration of not less than \$500, to be determined by the commissioner~~ the market value of the easement. The release must be in a form approved by the attorney general.

(c) Money received ~~for release of the easement~~ under paragraph (b) must be credited to the account from which money was expended for purchase of the easement. If there is no specific account, the money must be credited to the land acquisition account established in section 94.165.

(d) In addition to payment under paragraph (b), the commissioner of natural resources shall assess a landowner who applies for a release under this section an application fee of \$2,000 for reviewing the application and preparing the release of easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the release of easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(e) Money received under paragraph (d) must be deposited in the land management account in the natural resources fund. Money in the land management account of the natural resources fund is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 17. Minnesota Statutes 2008, section 84.922, subdivision 1a, is amended to read:

Subd. 1a. **Exemptions.** All-terrain vehicles exempt from registration are:

(1) vehicles owned and used by the United States, the state, another state, or a political subdivision;

(2) vehicles registered in another state or country that have not been in this state for more than 30 consecutive days;

(3) vehicles that:

(i) are owned by a resident of another state or country that does not require registration of all-terrain vehicles;

(ii) have not been in this state for more than 30 consecutive days; and

(iii) are operated on state and grant-in-aid trails by a nonresident possessing a nonresident all-terrain vehicle state trail pass;

~~(3)~~ (4) vehicles used exclusively in organized track racing events; and

~~(4)~~ (5) vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 18. **[84.9275] NONRESIDENT ALL-TERRAIN VEHICLE STATE TRAIL PASS.**

Subdivision 1. **Pass required; fee.** (a) A nonresident may not operate an all-terrain vehicle on a state or grant-in-aid all-terrain vehicle trail unless the operator carries a valid nonresident all-terrain vehicle state trail pass in immediate possession. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835.

(b) The commissioner of natural resources shall issue a pass upon application and payment of a \$20 fee. The pass is valid from January 1 through December 31. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the all-terrain vehicle account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid to counties and municipalities for all-terrain vehicle organizations to construct and maintain all-terrain vehicle trails and use areas.

(c) A nonresident all-terrain vehicle state trail pass is not required for:

(1) an all-terrain vehicle that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.922, subdivision 1a; or

(2) a person operating an all-terrain vehicle only on the portion of a trail that is owned by the person or the person's spouse, child, or parent.

Subd. 2. **License agents.** The commissioner may appoint agents to issue and sell nonresident all-terrain vehicle state trail passes. The commissioner may revoke the appointment of an agent at any time. The commissioner may adopt additional rules as provided in section 97A.485, subdivision 11. An agent shall observe all rules adopted by the commissioner for accounting and handling of passes pursuant to section 97A.485, subdivision 11. An agent shall promptly deposit and remit all money received from the sale of the passes, exclusive of the issuing fee, to the commissioner.

Subd. 3. **Issuance of passes.** The commissioner and agents shall issue and sell nonresident all-terrain vehicle state trail passes. The commissioner shall also make the passes available through the electronic licensing system established under section 84.027, subdivision 15.

Subd. 4. **Agent's fee.** In addition to the fee for a pass, an issuing fee of \$1 per pass shall be charged. The issuing fee may be retained by the seller of the pass. Issuing fees for passes issued by the commissioner shall be deposited in the all-terrain vehicle account in the natural resources fund and retained for the operation of the electronic licensing system.

Subd. 5. **Duplicate passes.** The commissioner and agents shall issue a duplicate pass to persons whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate nonresident all-terrain vehicle state trail pass is \$2, with an issuing fee of 50 cents.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 19. Minnesota Statutes 2008, section 85.015, subdivision 1b, is amended to read:

Subd. 1b. **Easements for ingress and egress.** (a) Notwithstanding section 16A.695, when a trail is established under this section, a private property owner who has a preexisting right of ingress and egress over the trail right-of-way is granted, ~~without charge,~~ a permanent easement for ingress and egress purposes only. The easement is limited to the preexisting crossing and reverts to the state upon abandonment. Nothing in this subdivision is intended to diminish or alter any written or recorded easement that existed before the state acquired the land for the trail.

(b) The commissioner of natural resources shall assess the applicant an application fee of \$2,000 for reviewing the application and preparing the easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(c) Money received under paragraph (b) must be deposited in the land management account in the natural resources fund. Money in the land management account of the natural resources fund is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 20. Minnesota Statutes 2008, section 85.053, subdivision 10, is amended to read:

Subd. 10. **Free entrance; totally and permanently disabled veterans.** The commissioner shall issue an annual park permit for no charge ~~for~~ to any veteran with a total and permanent service-connected disability, as determined by the United States Department of Veterans Affairs, who presents each year a copy of their determination letter to a park attendant or commissioner's designee. For the purposes of this section, "veteran" ~~with~~

~~a total and permanent service-connected disability" means a resident who has a total and permanent service-connected disability as adjudicated by the United States Veterans Administration or by the retirement board of one of the several branches of the armed forces has the meaning given in section 197.447.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009, for state park permits issued on or after that date.

Sec. 21. Minnesota Statutes 2008, section 85.46, subdivision 3, is amended to read:

Subd. 3. **Issuance.** The commissioner of natural resources and agents shall issue and sell horse trail passes. The pass shall include the applicant's signature and other information deemed necessary by the commissioner. To be valid, a daily or annual pass must be signed by the person riding, leading, or driving the horse, and a commercial annual pass must be signed by the owner of the commercial trail riding facility.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 22. Minnesota Statutes 2008, section 85.46, subdivision 4, is amended to read:

Subd. 4. **Pass fees.** (a) The fee for an annual horse trail pass is \$20 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. Annual passes are valid for one year beginning January 1 and ending December 31.

(b) The fee for a daily horse trail pass is \$4 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. The daily pass is valid only for the date designated on the pass form.

(c) The fee for a commercial annual horse trail pass is \$200 and includes issuance of 15 passes. Additional or individual commercial annual horse trail passes may be purchased by the commercial trail riding facility owner at a fee of \$20 each. Commercial annual horse trail passes are valid for one year beginning January 1 and ending December 31 and may be affixed to the horse tack, saddle, or person. Commercial annual horse trail passes are not transferable. For the purposes of this section, a "commercial trail riding facility" is an operation where horses are used for riding instruction or other equestrian activities for hire.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 23. Minnesota Statutes 2008, section 85.46, subdivision 7, is amended to read:

Subd. 7. **Duplicate horse trail passes.** The commissioner of natural resources and agents shall issue a duplicate pass to a person or commercial trail riding facility owner whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate horse trail pass is \$2, with an issuing fee of 50 cents.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 24. Minnesota Statutes 2008, section 93.481, subdivision 1, is amended to read:

Subdivision 1. **Prohibition against mining without permit; application for permit.** Except as provided in this subdivision, after June 30, 1975, no person shall engage in or carry out a mining operation for metallic minerals within the state unless the person has first obtained a permit to mine from the commissioner. Any person engaging in or carrying out a mining operation as of the effective date of the rules ~~promulgated~~ adopted under section 93.47 shall apply for a permit to mine within 180 days after the effective date of such rules. Any such existing mining operation may continue during the pendency of the application for the permit to mine. The person applying for a permit shall apply on forms prescribed by the commissioner and shall submit such information as the commissioner may require, including but not limited to the following:



~~(a)~~ (1) a proposed plan for the reclamation or restoration, or both, of any mining area affected by mining operations to be conducted on and after the date on which permits are required for mining under this section;

~~(b)~~ (2) a certificate issued by an insurance company authorized to do business in the United States that the applicant has a public liability insurance policy in force for the mining operation for which the permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation;

(3) an application fee of:

(i) \$25,000 for a permit to mine for a taconite mining operation;

(ii) \$50,000 for a permit to mine for a nonferrous metallic minerals operation;

(iii) \$10,000 for a permit to mine for a scam mining operation; or

(iv) \$5,000 for a permit to mine for a peat operation;

~~(c)~~ (4) a bond which may be required pursuant to section 93.49; and

~~(d)~~ (5) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed mining area and reclamation or restoration operations, which advertisement shall be published in a legal newspaper in the locality of the proposed site at least once a week for four successive weeks before the application is filed, except that if the application is for a permit to conduct lean ore stockpile removal the advertisement need be published only once.

Sec. 25. Minnesota Statutes 2008, section 93.481, subdivision 3, is amended to read:

Subd. 3. **Term of permit; amendment.** A permit issued by the commissioner pursuant to this section shall be granted for the term determined necessary by the commissioner for the completion of the proposed mining operation, including reclamation or restoration. A permit may be amended upon written application to the commissioner. A permit amendment application fee must be submitted with the written application. The permit amendment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine. If the commissioner determines that the proposed amendment constitutes a substantial change to the permit, the person applying for the amendment shall publish notice in the same manner as for a new permit, and a hearing shall be held if written objections are received in the same manner as for a new permit. An amendment may be granted by the commissioner if the commissioner determines that lawful requirements have been met.

Sec. 26. Minnesota Statutes 2008, section 93.481, subdivision 5, is amended to read:

Subd. 5. **Assignment.** A permit may not be assigned or otherwise transferred without the written approval of the commissioner. A permit assignment application fee must be submitted with the written application. The permit assignment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine.

Sec. 27. Minnesota Statutes 2008, section 93.481, subdivision 7, is amended to read:

Subd. 7. **Mining administration account.** The mining administration account is established as an account in the natural resources fund. ~~Ferrous mining administrative~~ Fees charged to owners, operators, or managers of mines under sections 93.481 and 93.482 shall be credited to the account and may be appropriated to the commissioner to cover the costs of providing and monitoring permits to mine ~~ferrous metals under this section.~~ Interest accruing from investment of the account remains with the account until appropriated.

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

Sec. 28. **[93.482] RECLAMATION FEES.**

Subdivision 1. **Annual permit to mine fee.** (a) The commissioner shall charge every person holding a permit to mine an annual permit fee. The fee is payable to the commissioner by June 30 of each year, beginning in 2009.

(b) The annual permit to mine fee for a taconite mining operation is \$60,000 if the operation had production within the past calendar year to the year in which payment is due and \$30,000 if there has been no production within the past calendar year.

(c) The annual permit to mine fee for a nonferrous metallic minerals mining operation is \$75,000 if the operation had production within the past calendar year to the year in which payment is due and \$37,500 if there has been no production within the past calendar year.

(d) The annual permit to mine fee for a scam mining operation is \$5,000 if the operation had production within the past calendar year to the year in which payment is due and \$2,500 if there has been no production within the past calendar year.

(e) The annual permit to mine fee for a peat mining operation is \$1,000 if the operation had production within the past calendar year to the year in which payment is due and \$500 if there has been no production within the past calendar year.

Subd. 2. **Supplemental application fee for taconite and nonferrous metallic minerals mining operation.** (a) In addition to the application fee specified in section 93.481, the commissioner shall assess a person submitting an application for a permit to mine for a taconite or a nonferrous metallic minerals mining operation the reasonable costs for reviewing the application and preparing the permit to mine. For nonferrous metallic minerals mining, the commissioner shall assess reasonable costs for monitoring construction of the mining facilities.

(b) The commissioner must give the applicant an estimate of the supplemental application fee under this subdivision. The estimate must include a brief description of the tasks to be performed and the estimated cost of each task. The application fee under section 93.481 shall be subtracted from the estimate of costs to determine the supplemental application fee.

(c) The applicant and the commissioner shall enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

(d) The commissioner shall not issue the permit to mine until the applicant has paid all fees in full. Upon completion of construction of a nonferrous metallic minerals facility, the commissioner shall refund any remaining balance between the fee assessed for monitoring construction and the amount used by the commissioner in monitoring construction of the mining facilities.

Subd. 3. **Reclamation fee on taconite iron ore produced.** (a) For the purposes of this subdivision:

(1) "fee owner" means a person having any right, title, or interest in any minerals or mineral rights in this state from which taconite iron ore is mined. Fee owner does not include the United States, the state, or the University of Minnesota;

(2) "taconite iron ore" means a ferruginous chert or ferruginous slate in the form of compact siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron bearing particles of merchantable grade are smaller than 20 mesh; and

(3) "ton" means a gross ton of 2,240 pounds.

(b) A fee owner is subject to a reclamation fee of \$.0075 per ton of taconite iron ore mined from the minerals or mineral rights owned by the fee owner.

(c) The fee owner shall make payment to the commissioner no later than January 20 of each calendar year for ore removed during the previous calendar year. The fee owner is liable for the payment of the reclamation fee. The fee owner may enter into an agreement with the mining operator to make the payment on their behalf from royalties due and owing or other financial terms.

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

Sec. 29. Minnesota Statutes 2008, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (5), (6), (7), (11), (13), (15), (16), and (17), and 3, clauses (2), (3), (4), (9), (11), (12), and (13), and licenses issued under section 97B.301, subdivision 4.

(b) \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. ~~When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first time, \$750,000 is canceled to the unappropriated balance of the game and fish fund.~~ The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

~~Thereafter,~~ When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

Sec. 30. Minnesota Statutes 2008, section 103G.301, subdivision 2, is amended to read:

Subd. 2. **Permit application fees.** (a) A permit application fee to defray the costs of receiving, recording, and processing the application must be paid for a permit authorized under this chapter and for each request to amend or transfer an existing permit. Fees established under this subdivision, unless specified in paragraph (c), shall be compliant with section 16A.1285.

~~(b) The fee for a project appropriating~~ Proposed projects that require water in excess of 100 million gallons per year must be assessed fees to recover the reasonable costs of preparing and processing the permit, including costs incurred to evaluate the project and the costs incurred for environmental review. Fees collected under this paragraph must be credited to an account in the natural resources fund and are appropriated to the commissioner for fiscal years 2008 and 2009.

(c) The fee to apply for a permit to appropriate water, ~~other than a permit subject to the~~ in addition to any fee under paragraph (b); a permit to construct or repair a dam that is subject to dam safety inspection; or a state general permit ~~or to apply for the state water bank program~~ is \$150. The application fee for a permit to work in public waters or to divert waters for mining must be at least \$150, but not more than \$1,000, ~~according to a schedule of fees adopted under section 16A.1285.~~

Sec. 31. Minnesota Statutes 2008, section 103G.301, subdivision 3, is amended to read:

Subd. 3. **Field inspection fees.** (a) In addition to the application fee, the commissioner may charge a field inspection fee for:

- (1) projects requiring a mandatory environmental assessment under chapter 116D;
- (2) projects undertaken without a required permit or application; and
- (3) projects undertaken in excess of limitations established in an issued permit.

(b) The fee must be at least \$100 but not more than actual inspection costs.

(c) The fee is to cover actual costs related to a permit applied for under this chapter or for a project undertaken without proper authorization.

(d) The commissioner shall establish a schedule of field inspection fees under section 16A.1285. The schedule must include actual costs related to field inspection, including investigations of the area affected by the proposed activity, analysis of the proposed activity, consultant services, and subsequent monitoring, if any, of the activity authorized by the permit. Fees collected under this subdivision must be credited to an account in the natural resources fund and are appropriated to the commissioner.

Sec. 32. Minnesota Statutes 2008, section 115.03, subdivision 5c, is amended to read:

Subd. 5c. **Regulation of storm water discharges.** (a) The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after May 29, 2003.

(c) The agency may develop performance standards, design standards, or other tools to enable and promote the implementation of low-impact development and other storm water management techniques. For the purposes of this section, "low-impact development" means an approach to storm water management that mimics a site's natural hydrology as the landscape is developed. Using the low-impact development approach, storm water is managed on-site and the rate and volume of predevelopment storm water reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation.

Sec. 33. Minnesota Statutes 2008, section 115.073, is amended to read:

#### **115.073 ENFORCEMENT FUNDING.**

Except as provided in section 115C.05, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, ~~up to the amount appropriated for implementation of Laws 1991, chapter 347,~~ must be deposited in the state treasury and credited to the environmental fund.

Sec. 34. Minnesota Statutes 2008, section 115.56, subdivision 4, is amended to read:

Subd. 4. **License fee.** The fee for a license required under subdivision 2 is ~~\$100~~ \$200 per year. Revenue from the fees must be credited to the environmental fund and is exempt from section 16A.1285.

Sec. 35. Minnesota Statutes 2008, section 115.77, subdivision 1, is amended to read:

Subdivision 1. **Fees established.** ~~The following fees are established for the purposes indicated:~~ agency shall collect fees in amounts necessary, but no greater than the amounts necessary, to cover the reasonable costs of reviewing applications and issuing certifications.

~~(1) application for examination, \$32;~~

~~(2) issuance of certificate, \$23;~~

~~(3) reexamination resulting from failure to pass an examination, \$32;~~

~~(4) renewal of certificate, \$23;~~

~~(5) replacement certificate, \$10; and~~

~~(6) reinstatement or reciprocity certificate, \$40.~~

Sec. 36. Minnesota Statutes 2008, section 115A.1314, subdivision 2, is amended to read:

Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account. Beginning in the second program year and continuing each program year thereafter, as of the last day of each program year, the commissioner of revenue shall determine the total amount of the variable fees that were collected. ~~By July 15, 2009, and each July 15 thereafter, the commissioner of the Pollution Control Agency shall inform the commissioner of revenue of the amount necessary to operate the program in the new program year.~~ To the extent that the total fees collected by the commissioner of revenue in connection with this section exceed the amount the commissioner of the Pollution Control Agency determines necessary to operate the program for the new program year, the commissioner of revenue shall refund on a pro rata basis, to all manufacturers who paid any fees for the previous program year, the amount of fees collected by the commissioner of revenue in excess of the amount necessary to operate the program for the new program year. No individual refund is required of amounts of \$100 or less for a fiscal year. Manufacturers who report collections less than 50 percent of their obligation for the previous program year are not eligible for a refund. ~~Amounts not refunded pursuant to this paragraph shall remain in the account. The commissioner of revenue shall issue refunds by August 10. In lieu of issuing a refund, the commissioner of revenue may grant credit against a manufacturer's variable fee due by September 1.~~

(b) Until June 30, ~~2009~~ 2011, money in the account is annually appropriated to the Pollution Control Agency:

(1) for the purpose of implementing sections 115A.1312 to 115A.1330, including transfer to the commissioner of revenue to carry out the department's duties under section 115A.1320, subdivision 2, and transfer to the commissioner of administration for responsibilities under section 115A.1324; and

(2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with counties outside the 11-county metropolitan area, as defined in paragraph (c), and with private entities that collect for recycling covered electronic devices in counties outside the 11-county metropolitan area, where the collection and recycling is consistent with the respective county's solid waste plan, for the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause, the commissioner must give preference to counties and private entities that are working cooperatively with manufacturers to help them meet their recycling obligations under section 115A.1318, subdivision 1.

(c) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Sec. 37. Minnesota Statutes 2008, section 115A.557, subdivision 3, is amended to read:

Subd. 3. **Eligibility to receive money.** (a) To be eligible to receive money distributed by the commissioner under this section, a county shall within one year of October 4, 1989:

(1) create a separate account in its general fund to credit the money; and

(2) set up accounting procedures to ensure that money in the separate account is spent only for the purposes in subdivision 2.

(b) In each following year, each county shall also:

(1) have in place an approved solid waste management plan or master plan including a recycling implementation strategy under section 115A.551, subdivision 7, and a household hazardous waste management plan under section 115A.96, subdivision 6, by the dates specified in those provisions;

(2) submit a report by April 1 of each year to the commissioner detailing for the previous calendar year:

(i) how the money was spent including, but not limited to, specific information on the number of employees performing SCORE planning, oversight, and administration; the percentage of those employees' total work time allocated to SCORE planning, oversight, and administration; the specific duties and responsibilities of those employees; and the amount of staff salary for these SCORE duties and responsibilities of the employees; and

(ii) the resulting gains achieved in solid waste management practices; and

(3) provide evidence to the commissioner that local revenue equal to 25 percent of the money sought for distribution under this section will be spent for the purposes in subdivision 2.

(c) The commissioner shall withhold all or part of the funds to be distributed to a county under this section if the county fails to comply with this subdivision and subdivision 2.

(d) The requirements for the report specified in paragraph (b), clause (2), that is due April 1, 2010, shall be abbreviated in scope. The information collected shall be sufficient for the commissioner to determine that counties have complied with the requirement of this subdivision.

Sec. 38. **[115A.559] COMPOSTING COMPETITIVE GRANT PROGRAM.**

Subdivision 1. **Grant program established.** The commissioner shall make competitive grants to political subdivisions to increase composting, reduce the amount of organic wastes entering disposal facilities, and reduce the costs associated with hauling waste by locating the composting site as close as possible to the site where the waste is

generated. To achieve the purpose of the grant program, the commissioner shall actively recruit potential applicants beyond traditional solid waste professionals and organizations, such as soil and water conservation districts and schools. Each grant must include an educational component.

Subd. 2. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section.

(b) The determination of whether to make a grant under this section is within the discretion of the commissioner, subject to subdivision 4. The commissioner's decisions are not subject to judicial review, except for abuse of discretion.

Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the available appropriations, grants must be made for projects that, in the commissioner's judgment, provide the highest return in public benefits.

(b) To be eligible to receive a grant, a project must:

(1) be locally administered;

(2) have measured outcomes; and

(3) include at least one of the following elements:

(i) the development of erosion control methods that use compost;

(ii) activities to encourage on-site composting by homeowners; or

(iii) activities to encourage composting by schools or public institutions.

Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

Sec. 39. Minnesota Statutes 2008, section 115A.931, is amended to read:

**115A.931 YARD WASTE PROHIBITION.**

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of reuse, composting, or cocomposting.

(b) [Renumbered 115A.03, subd 38]

(c) On or after January 1, 2010, a person may not place yard waste or source-separated compostable materials generated in a metropolitan county in a plastic bag delivered to a transfer station or compost facility unless the bag meets all the specifications in ASTM Standard Specification for Compostable Plastics (D6400). For purposes of this paragraph, "metropolitan county" has the meaning given in section 473.121, subdivision 4, and "ASTM" has the meaning given in section 296A.01, subdivision 6.

(d) A person who immediately empties a plastic bag containing yard waste or source-separated compostable materials delivered to a transfer station or compost facility and removes the plastic bag from the transfer station or compost facility is exempt from paragraph (c).

(e) Residents of a city of the first class that currently contracts for the collection of yard waste are exempt from paragraph (c) until January 1, 2013, if, by that date, the city implements a citywide source-separated compostable materials collection program using durable carts.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 40. Minnesota Statutes 2008, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. **Permit fees.** (a) The agency ~~may shall~~ collect permit fees in amounts ~~not greater than those necessary, but no greater than the amounts necessary,~~ to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits ~~and implementing and enforcing the conditions of the permits pursuant to agency rules.~~ Permit fees shall not include the costs of litigation. ~~The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting,~~ implementation, and enforcement. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the appropriate account in the environmental fund.

(b) Notwithstanding paragraph (a), the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated;

(2) may result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.



(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand a facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite permit review. The reimbursement shall be in addition to fees imposed by law. When the agency determines that it needs additional resources to review the permit application in an expedited manner, and that expediting the review would not disrupt permitting program priorities, the agency may accept the reimbursement. Reimbursements accepted by the agency are appropriated to the agency for the purpose of reviewing the permit application. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit and shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations.

~~(g) The fees under this subdivision are exempt from section 16A.1285.~~

Sec. 41. Minnesota Statutes 2008, section 116.41, subdivision 2, is amended to read:

Subd. 2. **Training and certification programs.** The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and ~~may~~ shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 42. **[116.9401] DEFINITIONS.**

(a) For the purposes of sections 116.9401 to 116.9408, the following terms have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Alternative" means a substitute process, product, material, chemical, strategy, or combination of these that serves a functionally equivalent purpose to a chemical in a children's product.

(d) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(e) "Chemical of high concern" means a chemical identified on the basis of credible scientific evidence by a governmental entity or the United Nations' World Health Organization as being known or suspected with a high degree of probability to:

(1) harm the normal development of a fetus or child or cause other developmental toxicity;

(2) cause cancer, genetic damage, or reproductive harm;

(3) disrupt the endocrine or hormone system;

(4) damage the nervous system, immune system, or organs, or cause other systemic toxicity;

(5) be persistent, bioaccumulative, and toxic; or

(6) be very persistent and very bioaccumulative.

(f) "Child" means a person under 12 years of age.

(g) "Children's product" means a consumer product intended for use by children, such as baby products, toys, car seats, personal care products, and clothing.

(h) "Commissioner" means the commissioner of the Pollution Control Agency.

(i) "Department" means the Department of Health.

(j) "Distributor" means a person who sells consumer products to retail establishments on a wholesale basis.

(k) "Green chemistry" means an approach to designing and manufacturing products in ways that minimize the use and generation of toxic substances.

(l) "Manufacturer" means any person who manufactures a final consumer product sold at retail or whose brand name is affixed to the consumer product. In the case of a consumer product imported into the United States, manufacturer includes the importer or domestic distributor of the consumer product if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not have a presence in the United States.

(m) "Priority chemical" means a chemical identified by the commissioner as a chemical of high concern that is contained in a children's product offered for sale in Minnesota and meets the criteria in section 116.9403.

(n) "Safer alternative" means an alternative whose potential to harm human health is less than that of a priority chemical that it could replace.

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

Sec. 43. **[116.9402] IDENTIFICATION OF CHEMICALS OF HIGH CONCERN.**

(a) By July 1, 2010, the department shall, after consultation with the agency, publish in the State Register and on the agency's Internet Web site a list of chemicals of high concern.

(b) The department must periodically review and revise the list of chemicals of high concern at least every three years. The department may add chemicals to the list if the chemical meets one or more of the criteria in section 116.9401, paragraph (e).

(c) The department shall consider, among others, chemicals listed in the following sources for possible inclusion on the list of chemicals of high concern:

(1) chemicals identified as "Group 1 carcinogens" or "Group 2A carcinogens" by the United Nations' World Health Organization, International Agency for Research on Cancer;

(2) chemicals identified as "known to be a human carcinogen" and "reasonably anticipated to be a human carcinogen" by the secretary of the United States Department of Health and Human Services;

(3) chemicals identified as "Group A carcinogens" or "Group B carcinogens" by the United States Environmental Protection Agency;

(4) chemicals identified as reproductive or developmental toxicants by:

(i) the United States Department of Health and Human Services, National Toxicology Program, Center for the Evaluation of Risks to Human Reproduction; and

(ii) the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, pursuant to the California Health and Safety Code, Safe Drinking Water and Toxic Enforcement Act of 1986, chapter 6.6, section 25249.8;

(5) chemicals identified as known or likely endocrine disruptors through screening or testing conducted in accordance with protocols developed by the United States Environmental Protection Agency pursuant to the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 346a(p), as amended by the federal Food Quality Protection Act, Public Law 104-170, or the federal Safe Drinking Water Act, United States Code, title 42, section 300j-17;

(6) chemicals listed on the basis of endocrine-disrupting properties in Annex XIV, List of Substances Subject to Authorisation, Regulation (EC) No 1907/2006 of the European Parliament concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals;

(7) persistent, bioaccumulative, and toxic chemicals identified by:

(i) the state of Washington Department of Ecology in Washington Administrative Code, chapter 173-333; or

(ii) the United States Environmental Protection Agency in Code of Federal Regulations, title 40, part 372; and

(8) a very persistent, very bioaccumulative chemical listed in Annex XIV, List of Substances Subject to Authorisation, Regulation (EC) No 1907/2006 of the European Parliament concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals.

(d) The department may consider chemicals listed by another state as harmful to human health or the environment for possible inclusion in the list of chemicals of high concern.

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

Sec. 44. **[116.9403] IDENTIFICATION OF PRIORITY CHEMICALS.**

The department, after consultation with the agency, may designate a chemical of high concern as a priority chemical if the department finds that the chemical:

(1) has been identified as a high-production volume chemical by the United States Environmental Protection Agency; and

(2) meets any of the following criteria:

(i) the chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(ii) the chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(iii) the chemical has been found through monitoring to be present in fish, wildlife, or the natural environment.

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

Sec. 45. **[116.9404] IDENTIFICATION OF SAFER ALTERNATIVES.**

Subdivision 1. **Department determination.** The department shall determine whether a safer alternative to a priority chemical is available and is a technically feasible replacement for the priority chemical. In making this determination, the department:

(1) must utilize information from current scientific literature, the Interstate Chemicals Clearinghouse, manufacturers of children's products, and other sources it deems appropriate;

(2) may presume that an alternative is a safer alternative if the alternative is not a chemical of high concern; and

(3) may presume that a safer alternative is available if:

(i) the sale of the children's product containing the priority chemical has been prohibited by another state within the United States;

(ii) the children's product containing the priority chemical is an item of apparel or a novelty; or

(iii) the alternative is sold in the United States.

Subd. 2. **Department designation.** (a) If the department determines that a safer alternative is available and is a technically feasible replacement for a priority chemical, the department shall designate that priority chemical a Level 1 priority chemical. If the department determines that current information does not indicate that a safer alternative is available or is a technically feasible replacement for a priority chemical, the department shall designate that chemical a Level 2 priority chemical. By February 1, 2011, the department shall publish a list of Level 1 and Level 2 priority chemicals in the State Register and on the department's Internet Web site and shall update the published list whenever a new priority chemical is designated.

(b) The department shall designate at least five priority chemicals as Level 1 or Level 2 by July 1, 2011, and at least five additional priority chemicals as Level 1 or Level 2 by January 1, 2013.

(c) The department shall, at least every two years:

(1) review the list of chemicals of high concern and determine, which, if any, should be designated Level 1 or Level 2 priority chemicals; and

(2) review the reports submitted by manufacturers under section 116.9405 to determine if any Level 2 priority chemicals should be designated as Level 1 priority chemicals.

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

Sec. 46. **[116.9405] DISCLOSURE OF INFORMATION ON PRIORITY CHEMICALS.**

Subdivision 1. **Reporting of chemical use.** Not later than 180 days after Level 1 and Level 2 priority chemicals are identified under section 116.9404, any person who is a manufacturer or distributor of a children's product for sale in this state that contains a Level 1 or Level 2 priority chemical shall notify the agency of that fact in writing unless the children's product is exempt under section 116.9406. This written notice must identify the product, the number of units sold or distributed for sale in this state or nationally during the previous calendar year, and the priority chemical or chemicals contained in the product.

Subd. 2. **Supplemental information.** The manufacturer or distributor of a children's product that contains a Level 1 or Level 2 priority chemical shall provide the following additional information if requested by the agency:

(1) information on the likelihood that the chemical will be released from the children's product to the environment during the children's product's life cycle and the extent to which users of the children's product are likely to be exposed to the chemical;

(2) additional information regarding the potential for harm to human health from specific uses of the priority chemical; and

(3) an assessment of the availability, cost, feasibility, and performance, including potential for harm to human health of alternatives to the priority chemical and the reason the priority chemical is used in the manufacture of the children's product in lieu of identified alternatives. If an assessment acceptable to the agency is not timely submitted as determined by the agency, the agency may assess a fee on the manufacturer or distributor to cover the costs to prepare an independent report on the availability of safer alternatives by a contractor of the agency's choice.

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

Sec. 47. **[116.9406] APPLICABILITY.**

The requirements of sections 116.9401 to 116.9408 do not apply to:

(1) chemicals in used children's products;

(2) priority chemicals used in the manufacturing process, but that are not present in the final product;

(3) priority chemicals used in agricultural production;

(4) motor vehicles as defined in chapter 168 or their component parts, except that the use of priority chemicals in detachable car seats is not exempt;

(5) priority chemicals generated solely as combustion by-products or that are present in combustible fuels;

(6) retailers, unless that retailer knowingly sells a children's product containing a priority chemical after the effective date of its prohibition, of which that retailer has received prior notification from a manufacturer, distributor, or the state;

(7) pharmaceutical products or biologics;

(8) a medical device as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h);

(9) food and food or beverage packaging, except a container containing baby food or infant formula;

(10) consumer electronics products and electronic components, including but not limited to personal computers; audio and video equipment; calculators; digital displays; wireless phones; cameras; game consoles; printers; and handheld electronic and electrical devices used to access interactive software or their associated peripherals; or products that comply with the provisions of directive 2002/95/EC of the European Union, adopted by the European Parliament and Council of the European Union now or hereafter in effect; or

(11) outdoor sport equipment, including snowmobiles as defined in section 84.81, subdivision 3; all-terrain vehicles as defined in section 84.92, subdivision 8; personal watercraft as defined in section 86B.005, subdivision 14a; watercraft as defined in section 86B.005, subdivision 18; and off-highway motorcycles, as defined in section 84.787, subdivision 7, and all attachments and repair parts for all of this equipment.

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

Sec. 48. **[116.9407] DONATIONS TO THE STATE.**

The commissioners of health and pollution control may accept donations, grants, and other funds to carry out the purposes of sections 116.9401 to 116.9408. All such donations, grants, and other funds must be accepted without preconditions regarding the outcomes of the oversight processes set forth in sections 116.9401 to 116.9408.

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

Sec. 49. **[116.9408] PARTICIPATION IN INTERSTATE CHEMICALS CLEARINGHOUSE.**

The agency may participate in an interstate chemicals clearinghouse to promote safer chemicals in consumer products in cooperation with other states, including the classification of chemicals in commerce; organizing and managing available data on chemicals, including information on uses, hazards, and environmental and health concerns; and producing and evaluating information on safer alternatives to specific uses of chemicals of concern.

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

Sec. 50. Minnesota Statutes 2008, section 116C.834, subdivision 1, is amended to read:

Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the Pollution Control Agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

(1) the state contribution required to join the compact;

(2) the expenses of the commission member and state agency costs incurred to support the work of the Interstate Commission; and

(3) regulatory costs.

~~The fees are exempt from section 16A.1285.~~

Sec. 51. Minnesota Statutes 2008, section 116D.045, is amended to read:

**116D.045 ENVIRONMENTAL IMPACT STATEMENTS; REVIEW COSTS.**

Subdivision 1. **Assessment.** (a) The board shall by rule adopt procedures to assess the proposer of a specific action for reasonable costs of preparing and distributing an environmental impact statement on that action required pursuant to section 116D.04. ~~Such~~ The costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

(b) A responsible government unit shall assess the proposer of a specific action for the reasonable costs of preparing and distributing an environmental assessment worksheet on that action required under section 116D.04 in accordance with Minnesota Rules, parts 4410.6100 and 4410.6200, except that a local unit of government is exempt from paying the equivalent of the first ten hours of the assessed reasonable costs of preparing and distributing the environmental assessment worksheet. This paragraph is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 2. **Modification.** In the event of a disagreement between the proposer of the action and the responsible governmental unit over the cost of an environmental impact statement or environmental assessment worksheet, the responsible governmental unit shall consult with the board, which may modify the cost or determine that the cost assessed by the responsible governmental unit is reasonable.

Subd. 3. **Use of assessment.** The responsible governmental unit shall assess the project proposer for reasonable costs in preparing and distributing the environmental impact statement or environmental assessment worksheet and the proposer shall pay the assessed cost to the responsible governmental unit. Money received under this subdivision by a responsible governmental unit may be retained by the unit for the same purposes. Money received by a state agency must be credited to a special account and is appropriated to the agency to cover the assessed costs incurred.

Subd. 4. **Partial cost to be paid.** No responsible governmental unit shall commence the preparation of an environmental impact statement or environmental assessment worksheet until at least one-half of the assessed cost of the environmental impact statement or environmental assessment worksheet is paid pursuant to subdivision 3. Other laws notwithstanding, no state agency may issue any permits for the construction or operation of a project for which an environmental impact statement or environmental assessment worksheet is prepared until the assessed cost for the environmental impact statement or environmental assessment worksheet has been paid in full.

Sec. 52. **[216H.021] GREENHOUSE GAS EMISSIONS REPORTING.**

Subdivision 1. **Commissioner to establish reporting system and maintain inventory.** In order to measure the progress in meeting the goals of section 216H.02, subdivision 1, and to provide information to develop strategies to achieve those goals, the commissioner of the Pollution Control Agency shall establish a system for reporting and maintaining an inventory of greenhouse gas emissions. The commissioner must consult with the chief information officer of the Office of Enterprise Technology about system design and operation. Greenhouse gas emissions include those emissions described in section 216H.01, subdivision 2.

Subd. 2. **Reporting system design.** (a) The commissioner shall, to the extent practicable, design the system to coordinate with other regional or federal greenhouse gas emissions-reporting and inventory systems. The coordination may, without limitation, include the use of similar forms and reports, the sharing of information, and the use of common facilities, systems, and databases.

(b) The reporting system need not include all sources of emissions nor all amounts of emissions but, at its outset, must include:

(1) all stationary sources and other facilities required to obtain a permit under Title V of the federal Clean Air Act, United States Code, title 42, section 7401 et. seq.; and

(2) facilities whose annual carbon dioxide equivalent emissions, as defined in section 216H.10, subdivision 3, exceed a threshold set by the commissioner at between 10,000 tons and 25,000 tons. The reporting threshold set by the commissioner must be consistent with the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies.

(c) In designing the greenhouse gas emissions reporting system, the commissioner shall consider requiring the reporting of greenhouse gas emissions from transportation fuels and greenhouse gas emissions from natural gas combustion that are not included in reporting from stationary sources. In determining whether to include reporting of these emissions, the commissioner must consider both the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies recommended by the Minnesota Climate Change Advisory Group. If the commissioner decides that transportation fuels and portions of natural gas combustion should not be included in the initial emissions reporting system, the commissioner must report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy and environmental policy the reasons for that decision and suggestions for steps that should be taken to allow their inclusion in the emissions reporting system in the future.

(d) A facility reporting greenhouse gas emissions under this section must maintain the data used to create the reports for a minimum of five years.

Subd. 3. **Rules.** The commissioner of the Pollution Control Agency may adopt rules for the purposes of this section.

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

Sec. 53. Minnesota Statutes 2008, section 216H.10, subdivision 7, is amended to read:

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

Sec. 54. Minnesota Statutes 2008, section 216H.11, is amended to read:

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

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

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



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

Sec. 55. **[325E.046] STANDARDS FOR LABELING PLASTIC BAGS.**

Subdivision 1. **Biodegradable label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "biodegradable," "degradable," or any form of those terms, or in any way imply that the bag will chemically decompose into innocuous elements in a reasonably short period of time in a landfill, composting, or other terrestrial environment unless a scientifically based standard for biodegradability is developed and the bags are certified as meeting the standard.

Subd. 2. **Compostable label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "compostable" unless, at the time of sale, the bag meets the ASTM Standard Specification for Compostable Plastics (D6400). Each bag must be labeled to reflect that it meets the standard. For purposes of this subdivision, "ASTM" has the meaning given in section 296A.01, subdivision 6.

Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A manufacturer, distributor, or wholesaler who willfully violates this section is subject to a civil penalty of \$100 for each violation up to a maximum of \$5,000 and may be enjoined from such violations.

(b) The attorney general may bring an action in the name of the state in a court of competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in this subdivision. The attorney general may accept an assurance of discontinuance of acts in violation of this section in the manner provided in section 8.31, subdivision 2b.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 56. **[383B.236] WASTE MANAGEMENT BY HENNEPIN COUNTY.**

The Hennepin County Board of Commissioners may utilize money received from the sale of energy and recovered materials, and placed in the county solid and hazardous waste fund under section 473.811, subdivision 9, for program expenses of the Department of Environmental Services, or the department or office succeeding to the functions of the Department of Environmental Services. This authority shall be in addition to the authority given in section 473.811, subdivision 9.

Sec. 57. Laws 2002, chapter 220, article 8, section 15, is amended to read:

Sec. 15. **INCREASE TO WATER QUALITY PERMIT FEES.**

(a) The pollution control agency shall collect water quality permit application and annual fees that reflect the fees in Minnesota Rules, part 7002.0310, increased to the amounts described in paragraphs (b) to (g).

(b) The application fee for individual permits, general permits, and general industrial stormwater permits is \$240.

(c) The annual fees for individual National Pollutant Discharge Elimination System permits for major municipal facilities are as follows:

Design Flow in Million Gallons Per Day Annual Fee  
50 and over \$175,750 20 to 49.99 \$40,350 5 to 19.99  
\$14,350 Up to 4.99 \$5,900

(d) The annual fees for individual National Pollutant Discharge Elimination System permits for major nonmunicipal facilities are as follows:

Design Flow in Million Gallons Per Day Annual Fee 20 to 49.99 \$44,200 5 to 19.99 \$18,250 Up to 4.99 \$8,450

Cooling or mine pit dewatering (any flow) \$16,900

(e) The annual fees for individual National Pollutant Discharge Elimination System and State Disposal System permits for nonmajor municipal facilities with design flows greater than 0.100 million gallons per day are \$1,450.

(f) The annual fees for general industrial stormwater permits are \$280.

(g) The annual fees for general National Pollutant Discharge Elimination System and State Disposal System permits are \$345.

~~(h) The application and annual fees are not increased for general construction stormwater permits and sanitary sewer extension permits. The annual fees are not increased for National Pollutant Discharge Elimination System and State Disposal System permits regulating municipal nonmajors with facility design flow of 0 to .100, sewage sludge landspreading facilities, and nonmajor nonmunicipal facilities.~~

⊕ (h) The increased permit fees are effective July 1, 2002. The agency shall adopt amended water quality permit fee rules incorporating the permit fee increases in this subdivision under Minnesota Statutes, section 14.389. The pollution control agency shall begin collecting the increased permit fees on July 1, 2002, even if the rule adoption process has not been initiated or completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased permit fees reflecting the permit fee increases in this section and the rule amendments incorporating those permit fee increases do not require further legislative approval.

Sec. 58. Laws 2007, chapter 57, article 1, section 4, subdivision 2, is amended to read:

Subd. 2. <b>Land and Mineral Resources Management</b>	11,747,000	11,272,000
Appropriations by Fund		
General	6,633,000	6,230,000
Natural Resources	3,551,000	3,447,000
Game and Fish	1,363,000	1,395,000
Permanent School	200,000	200,000

\$475,000 the first year and \$475,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund and \$275,000 each year is from the general fund. \$237,500 the first year and \$237,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,800,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c).

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

\$15,000 the first year is for a report by February 1, 2008, to the house and senate committees with jurisdiction over environment and natural resources on proposed minimum legal and conservation standards that could be applied to conservation easements acquired with public money.

\$1,201,000 the first year and \$701,000 the second year are to support the land records management system. Of this amount, \$326,000 the first year and \$326,000 the second year are from the game and fish fund and \$375,000 the first year and \$375,000 the second year are from the natural resources fund. The unexpended balances are available until June 30, 2011. The commissioner must report to the legislative chairs on environmental finance on the outcomes of the land records management support.

\$500,000 the first year and \$500,000 the second year are for land asset management. This is a onetime appropriation.

Sec. 59. Laws 2008, chapter 363, article 5, section 4, subdivision 7, is amended to read:

Subd. 7. <b>Fish and Wildlife Management</b>	123,000	119,000
Appropriations by Fund		
General	-0-	(427,000)
Game and Fish	123,000	546,000

\$329,000 in 2009 is a reduction for fish and wildlife management.

\$46,000 in 2009 is a reduction in the appropriation for the Minnesota Shooting Sports Education Center.

\$52,000 in 2009 is a reduction for licensing.

\$123,000 in 2008 and \$246,000 in 2009 are from the game and fish fund to implement fish virus surveillance, prepare infrastructure to handle possible outbreaks, and implement control procedures for highest risk waters and fish production operations. This is a onetime appropriation.

Notwithstanding Minnesota Statutes, section 297A.94, paragraph (e), \$300,000 in 2009 is from the second year appropriation in Laws 2007, chapter 57, article 1, section 4, subdivision 7, from the heritage enhancement account in the game and fish fund to study, predesign, and design a shooting sports facilities at the Vermillion Highlands Wildlife Management Area authorized by Laws 2007, chapter 57, article 1, section 168 facility in the seven-county metropolitan area. This is available onetime only and is available until expended.

\$300,000 in 2009 is appropriated from the game and fish fund for only activities that improve, enhance, or protect fish and wildlife resources. This is a onetime appropriation.

Sec. 60. **WORKING GROUP ON SCORE REPORTING.**

By July 1, 2009, the commissioner of the Pollution Control Agency shall convene a working group on SCORE reporting to review the requirements for counties to report to the agency on activities funded under Minnesota Statutes, section 115A.557. The commissioner shall appoint to the working group representatives from, at a minimum, the following organizations: the Association of Minnesota Counties, the Solid Waste Administrators Association, and the Solid Waste Management Coordinating Board. The working group shall make recommendations to amend the reporting requirements under Minnesota Statutes, section 115A.557, subdivision 3, in ways that reduce the resources counties employ to collect the data reported, while ensuring that estimation methods used to report data are consistent across counties and that the data reported are accurate and useful as a guide to solid waste management policy makers. The working group shall also make recommendations regarding the feasibility and desirability of multicounty reporting of the data. The working group's recommendations must be presented in a report submitted to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over solid waste policy no later than December 15, 2009.

Sec. 61. **COMPOST REPORT.**

By December 15, 2011, the commissioner of the Pollution Control Agency shall report to the legislative committees with jurisdiction over environment and natural resources policy on:

(1) the mixed municipal solid waste diversion rates accomplished by the grant program under Minnesota Statutes, section 115A.559;

(2) participants in the grant program and the programs developed with grant funds; and

(3) the potential for new permanent programs based on results of projects funded with grants issued under Minnesota Statutes, section 115A.559.

Sec. 62. **PRIORITY CHEMICAL REPORTS.**

(a) By January 15, 2010, the commissioner of health, in consultation with the Pollution Control Agency, shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health regarding the progress on implementing Minnesota Statutes, sections 116.9401 to 116.9408.

(b) By January 15, 2010, the commissioner of the Pollution Control Agency shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health on the agency's plans to implement Minnesota Statutes, section 116.9405, and assess mechanisms to reduce and phase out the use of priority chemicals in children's products, including potential funding mechanisms. The report must include information on the progress of other states in reducing toxic chemicals in children's products and recommend ways to promote product design that incorporates the principles of green chemistry and life cycle analysis in order to protect public health and the environment. In developing the report, the agency may consult outside experts and groups working to reduce toxic chemicals in children's products in Minnesota and nationally.

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

Sec. 63. **ENVIRONMENTAL REVIEW STREAMLINING REPORT.**

By January 15, 2010, the commissioner of the Pollution Control Agency must submit a report to the environment and natural resources policy and finance committees of the house of representatives and senate on options to streamline the environmental review process under chapter 116D. In preparing the report, the commissioner must consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report must include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining air, land, and water quality standards.

Sec. 64. **COMPENSATION OF GOVERNOR'S STAFF.**

For fiscal years 2010 and 2011, the Department of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil Resources may not use funds appropriated in this act or funds from any statutory or open appropriation to directly or indirectly pay for the compensation costs of staff in the office of the governor.

Sec. 65. **FISH CONSUMPTION ADVISORIES.**

The commissioner of natural resources, in cooperation with the commissioner of health, shall ensure that fish consumption advisories are displayed in at least four different languages to fairly represent the population of the state.

Sec. 66. **CARBON SEQUESTRATION FORESTRY REPORT.**

The Minnesota Forest Resources Council shall review the Minnesota Climate Change Advisory Group's recommendation to increase carbon sequestration in forests by planting 1,000,000 acres of trees and shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over energy and energy finance, environment and natural resources, and environment and natural resources finance; the governor; and the commissioner of natural resources by January 15, 2010. The report shall, at a minimum, include recommendations on implementation and analysis of the number and ownership of acres available for tree planting, the types of native species best suited for planting, the availability of planting stock, and potential costs.

Sec. 67. **REPEALER.**

Laws 2008, chapter 363, article 5, section 30, is repealed.

ARTICLE 2

ENERGY FINANCE

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$28,041,000</u>	<u>\$27,041,000</u>	<u>\$55,082,000</u>
<u>Petroleum Tank Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>	<u>2,168,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>	<u>1,502,000</u>
<u>Special Revenue</u>	<u>300,000</u>	<u>300,000</u>	<u>600,000</u>
<b><u>Total</u></b>	<b><u>\$30,176,000</u></b>	<b><u>\$29,176,000</u></b>	<b><u>\$59,352,000</u></b>

Sec. 2. **ENERGY FINANCE APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2010</u></b>	<b><u>2011</u></b>

Sec. 3. **DEPARTMENT OF COMMERCE**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$24,743,000</u></b>	<b><u>\$23,743,000</u></b>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>22,608,000</u>	<u>21,608,000</u>
<u>Petroleum Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>
<u>Special Revenue</u>	<u>300,000</u>	<u>300,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <b><u>Financial Institutions</u></b>	<b><u>6,638,000</u></b>	<b><u>6,638,000</u></b>
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\$1,000 each year is for consumer small loan regulation modifications in article 7. This appropriation is added to the department's base.

<u>Subd. 3. <b>Petroleum Tank Release Cleanup Board</b></u>	<u>1,084,000</u>	<u>1,084,000</u>
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This appropriation is from the petroleum tank release cleanup fund.  
The base funding for this program ends June 30, 2012.

<u>Subd. 4. <b>Administrative Services</b></u>	<u>4,300,000</u>	<u>4,300,000</u>
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<u>Subd. 5. <b>Telecommunications</b></u>	<u>1,010,000</u>	<u>1,010,000</u>
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<u>Subd. 6. <b>Market Assurance</b></u>	<u>7,421,000</u>	<u>7,421,000</u>
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Appropriations by Fund

<u>General</u>	<u>6,670,000</u>	<u>6,670,000</u>
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<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>
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<u>Subd. 7. <b>Office of Energy Security</b></u>	<u>3,990,000</u>	<u>2,990,000</u>
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<u>Subd. 8. <b>Telecommunications Access Minnesota</b></u>	<u>300,000</u>	<u>300,000</u>
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\$300,000 the first year and \$300,000 the second year are for transfer to the commissioner of human services to supplement the ongoing operational expenses of the Minnesota Commission Serving Deaf and Hard-of-Hearing People. This appropriation is from the telecommunication access Minnesota fund, and is added to the commission's base. This appropriation consolidates, and is not in addition to, appropriation language from Laws 2006, chapter 282, article 11, section 4, and Laws 2007, chapter 57, article 2, section 3, subdivision 7.

<u>Sec. 4. <b>PUBLIC UTILITIES COMMISSION</b></u>	<u>\$5,433,000</u>	<u>\$5,433,000</u>
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Sec. 5. Minnesota Statutes 2008, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; ~~and~~

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and

(8) assess a licensee the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigations. All money collected must be deposited into the general fund.

Sec. 6. Minnesota Statutes 2008, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies;

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10;

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges;

(1) for filing an application for an initial certification of authority to be admitted to transact business in this state, \$1,500;

(2) for filing certified copy of certificate of articles of incorporation, \$100;

(3) for filing annual statement, \$225;

(4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

(5) for filing bylaws, \$75 or amendments thereto, \$75;

(6) for each company's certificate of authority, \$575, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;



(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(6) for each appointment of an agent filed with the commissioner, \$10;

(7) for filing forms, rates, and compliance certifications under section 60A.315, ~~\$90~~ \$140 per filing, or ~~\$75~~ \$125 per filing when submitted via electronic filing system. Filing fees may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 7. Minnesota Statutes 2008, section 216B.62, subdivision 3, is amended to read:

Subd. 3. **Assessing all public utilities.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to ~~(4)~~ public utilities under ~~section 216A.085~~, sections 216A.085 and 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2 or 6, and ~~(2) alternative energy engineering activity under section 216C.261 or 7.~~ The remainder, ~~except the amount assessed against cooperatives and municipalities for alternative energy engineering activity under subdivision 5,~~ shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 8. Minnesota Statutes 2008, section 216B.62, subdivision 4, is amended to read:

Subd. 4. **Objections.** Within 30 days after the date of the transmittal of any bill as provided by ~~subdivisions subdivision 2 and 3, or 7,~~ the public utility against which the bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days hold a hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Sec. 9. Minnesota Statutes 2008, section 216B.62, subdivision 5, is amended to read:

Subd. 5. **Assessing cooperatives and municipals.** The commission and department may charge cooperative electric associations, generation and transmission cooperative electric associations, municipal power agencies, and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes, proceedings under section 216B.1691, 216B.2425, or 216B.243, and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

~~The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.~~

Sec. 10. Minnesota Statutes 2008, section 216B.62, is amended by adding a subdivision to read:

Subd. 7. **Assessing all utilities.** The department shall assess public utilities, cooperative electric associations, and municipal utilities for the costs of activities under chapter 216C. The department shall not assess for costs of grants, loans, or other aids or for costs that can be recovered through other assessment authority. Each public utility, cooperative, and municipal utility shall be assessed in the proportion that its gross operating revenue for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

### ARTICLE 3

#### ENERGY DEFINITIONS; GOALS; LEGISLATIVE REVIEW

##### Section 1. **FEDERAL STIMULUS FUNDING; GOAL OF ENERGY PROGRAMS.**

Subdivision 1. **Definitions.** For the purposes of articles 2 to 6, the following terms have the meaning given them.

(a) "Act" means the American Recovery and Reinvestment Act of 2009.

(b) "Commissioner" means the commissioner of commerce.

(c) "Stimulus funding" or "funding" means funding provided to the state under the act for:

(1) energy efficiency and conservation block grants authorized under subtitle E of title V of the federal Energy Independence and Security Act of 2007, United States Code, title 42, section 17151 et seq.;

(2) the Weatherization Assistance Program authorized under part A of title IV of the federal Energy Conservation and Production Act, United States Code, title 42, section 6861, et seq.; and

(3) the State Energy Program authorized under part D of title III of the federal Energy Policy and Conservation Act, United States Code, title 42, section 6321, et seq.

Subd. 2. **Stimulus funding allocation and use goals.** To the extent allowed by federal law and regulation and consistent with the purposes and principles of the act, stimulus funding must be allocated and expended under articles 2 to 4 for activities that best achieve the following goals:

- (1) job retention and creation;
- (2) improved energy efficiency and increased renewable energy production capacity;
- (3) coordination with and leveraging of other resources to increase the total benefits derived from stimulus funding;
- (4) timely implementation of funded activities;
- (5) long-term sustainability of benefits derived from stimulus funds;
- (6) geographic distribution across the state; and
- (7) compliance with the disadvantaged business enterprise outreach requirements in Minnesota Statutes, section 16C.16, subdivision 4.

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

Sec. 2. **LEGISLATIVE REVIEW.**

The Office of Energy Security shall, prior to expending any stimulus funds, submit to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance the criteria it proposes to use to rank the programs in articles 2 to 6 in order to allocate stimulus funding among the programs. Comments on the proposed criteria must be submitted to the Office of Energy Security within ten working days of receipt of the criteria. The Office of Energy Security shall consider the comments before establishing the final allocation criteria, and shall submit a report on the amount of stimulus funds allocated to each of the programs under articles 2 to 6 the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance within ten working days of establishing the stimulus funding allocations.

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

ARTICLE 4

ENERGY EFFICIENCY

Section 1. **WEATHERIZATION.**

Subdivision 1. **Allocation of funds.** All stimulus funds for weatherization must be allocated by the director of the Office of Energy Security, consistent with federal allocation requirements and state allocation formulas in the state weatherization plan. Existing providers of weatherization services must be fully utilized, consistent with effective program delivery, before additional providers of weatherization services are added.

Subd. 2. **Rental units.** Programs that include rental units must be developed, including developing procedures to increase low-income rental unit participation in programs. Priority must be given to serving the largest number of new weatherization clients consistent with federal eligibility requirements.

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

**Sec. 2. LOCAL GOVERNMENT AND SCHOOL DISTRICT BUILDING RENOVATIONS.**

The Office of Energy Security must coordinate the use of stimulus funds with the local public building enhanced energy-efficiency program under Minnesota Statutes, section 216C.43. The Office of Energy Security shall prioritize lighting upgrades, energy recommissioning, and other cost-effective energy projects that are ready for immediate implementation. Stimulus funds may be used for, but are not limited to, grants for a portion of costs incurred by local governments to implement energy efficiency improvements under the local public building enhanced energy-efficiency program. The Office of Energy Security may require a local government, as a condition of receiving a grant, to commit to implement future activities, including, but not limited to, staff training, that are designed to create additional energy or operating savings to the local government. The Office of Energy Security shall coordinate with the Department of Education to prioritize school district projects for funding under this section, consistent with the principles of statewide geographic distribution of projects, optimized energy savings, and an improved learning environment for schoolchildren.

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

**Sec. 3. STATE GOVERNMENT BUILDINGS.**

The Department of Administration shall develop a plan and procedures to select, fund, and implement projects using stimulus funds. The plan and procedures shall prioritize lighting upgrades, energy-efficient windows, energy recommissioning, and other cost-effective energy projects that are ready for immediate implementation. Funds may be used for, but are not limited to, grants for a portion of costs incurred by state agencies in implementing energy efficiency improvements. The Department of Administration may require a state agency, as a condition of receiving stimulus funds, to commit to implement future activities, including, but not limited to, staff training, that are designed to create additional energy or operating savings to the state agency.

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

**Sec. 4. RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.**

The Office of Energy Security shall coordinate with the Minnesota Housing Finance Agency to use stimulus funds in conjunction with the Minnesota Housing Finance Agency's existing financing programs to improve energy efficiency in dwellings.

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

**Sec. 5. TRAINING AND WORKFORCE DEVELOPMENT.**

(a) The Department of Employment and Economic Development, in consultation with the Office of Energy Security and the Office of Higher Education, shall develop a plan and procedures to:

(1) allocate stimulus funds to training programs to train energy professionals needed to implement the energy programs described in sections 2 to 4, including but not limited to energy auditors, energy managers, and building operators;

(2) coordinate, oversee, and monitor the training and certification of energy professionals; and

(3) allocate stimulus funding for the purposes of clauses (1) and (2) and to training providers.

(b) Training strategies must be designed to meet the wide range of facilities managers and building sizes and types, and must protect the occupational health and safety of workers employed on these energy projects. Technical skills training must include insulation, air sealing, and mechanical work.

(c) The plan must include procedures to:

(1) train individuals already employed in implementing energy programs;

(2) recruit individuals to be trained to perform work in energy projects using stimulus funding who are unemployed, especially targeting communities experiencing disproportionately high rates of unemployment, including, but not limited to, low-income, rural, or tribal communities and individuals in construction trades and crafts; and

(3) ensure that the full capacity of current training providers is utilized, including, but not limited to, opportunities industrialization centers, skilled trades labor unions, tribal colleges or nonprofits working in tribal communities, community action partnerships, utility companies, higher education institutions, and nonprofit organizations with demonstrated expertise in energy efficiency.

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

Sec. 6. **ACCOUNTABILITY AND TRANSPARENCY REPORTING.**

The director of the Office of Energy Security, after compiling information supplied by the Departments of Administration, Education, and Employment and Economic Development, and the Office of Higher Education, shall report on the progress of the programs funded under articles 2 to 6 to the house of representatives and senate committees with jurisdiction over energy finance and workforce development policy by September 1, 2009, January 15, 2010, April 1, 2010, and September 1, 2010. The report must include a complete accounting of all stimulus funds spent on the programs funded under articles 2 to 6, to the extent allowable by state and federal law, including, but not limited to:

(1) the specific projects funded, including the location, building owner, and project manager;

(2) the number of jobs retained or created by each project;

(3) the total calculated and actual energy savings for each project;

(4) the remaining balances in each stimulus fund;

(5) the nonstimulus funding leveraged by stimulus funds for each project;

(6) the training courses provided, including the location and provider of courses offered, the funding source for each training course, and the total number of trainees; and

(7) compliance with prevailing wage, veterans, and disadvantaged business enterprise requirements.

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

ARTICLE 5

RENEWABLE ENERGY

Section 1. **RENEWABLE ENERGY GRANT PROGRAM.**

(a) The commissioner of commerce shall establish a program to award grants to energy projects that meet the following conditions:

(1) the project qualifies as a community-based energy development (C-BED) project, as defined in Minnesota Statutes, section 216B.1612, subdivision 2, paragraph (g);

(2) for wind projects, the project is located in an area where the measured wind resource is Class 4 or above;

(3) the project begins commercial operation after July 1, 2009;

(4) the project does not receive renewable energy payment incentives under Minnesota Statutes, section 216C.41; and

(5) the project meets any other conditions established under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for use of these funds.

(b) The department shall develop an application form, application review procedures, criteria that projects must meet in order to be considered for a grant award, procedures and guidelines for project monitoring and evaluation, and other administrative procedures necessary to fully implement a grant program.

(c) The maximum grant to a project is \$500,000.

(d) No more than two projects in a single county may receive a grant under this section.

(e) No C-BED qualifying owner may financially participate in more than one project that receives a grant under this section.

(f) Grant awards must be geographically dispersed throughout the state.

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

Sec. 2. **RENEWABLE ELECTRIC GENERATION FACILITY REBATES.**

(a) The commissioner shall establish a program to award rebates to qualifying facilities that generate electricity from a renewable source and that:

(1) begin operation after July 1, 2009;

(2) meet all other conditions established under the act; and

(3) provide electricity to:

(i) a homeowner's primary residence; or

(ii) a business, with 20 or fewer full-time employees.

(b) The commissioner shall develop an application form, application review procedures, criteria that projects must meet in order to be considered for a rebate, procedures and guidelines for project monitoring and evaluation, and other administrative procedures necessary to fully implement a rebate program.

(c) The owner of a qualifying facility may apply to the commissioner for a rebate of the lesser of \$2,500 or 35 percent of the cost of the electric generation facility, including installation costs.

(d) The commissioner shall award rebates only from funds appropriated for that purpose and to the extent of those appropriations. Grants must be made to applicants in the order of the time of receipt of a complete application.

(e) For purposes of this section:

(1) "Qualifying facility" means an electric generation facility with a capacity of less than 40 kilowatts that generates electricity from a renewable energy source.

(2) "Renewable energy source" means:

(i) solar;

(ii) wind;

(iii) hydroelectric;

(iv) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this clause; or

(v) biomass, which includes, without limitation, landfill gas; an anaerobic digester system; and the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge to produce electricity.

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

Sec. 3. **SOLAR ENERGY PROJECTS IN PUBLIC BUILDINGS AND SCHOOLS.**

(a) The commissioner shall establish a program to award grants to:

(1) local units of government to pay the costs of installing solar energy projects to generate energy used in public buildings; or

(2) to school districts to pay the costs of installing solar energy projects to generate energy used in K-12 schools.

(b) To be eligible to receive a grant, a project must:

(1) begin operation after July 1, 2009; and

(2) meet all other conditions established under the act.

(c) The commissioner shall develop an application form, application review procedures, criteria that a project must meet in order to be considered for a grant award, procedures and guidelines for project monitoring and evaluation, and other administrative procedures necessary to fully implement a grant program.

(d) In awarding grants, the commissioner must determine, at a minimum, the following:

(1) that the physical condition of the building is sufficient to support the efficient operation of the solar energy project;

(2) that there is no significant possibility that the building may close within ten years, which determination, for a school, must be based on enrollment projections; and

(3) that the projected cumulative energy savings exceed the grant amount within 15 years for a qualifying solar thermal project, and within 20 years for a photovoltaic device.

(e) In awarding grants, the commissioner must also consider:

(1) the reliability and cost-effectiveness of the solar technology to be installed;

(2) the extent to which the proposal effectively coordinates with the conservation and energy efficiency programs offered by the energy utilities serving the building in which the project is located, and with the public building enhanced energy efficiency program under section 216C.43, if applicable;

(3) life cycle energy use reductions and greenhouse gas emissions reductions projected per dollar of installed cost of the project; and

(4) the geographic distribution of grant recipients throughout the state.

(f) For the purposes of this section:

(1) "public building" means any publicly owned building, sports arena, or other facility of a county, city, or other local unit of government; and

(2) "solar energy" means:

(i) a photovoltaic device, as defined in Minnesota Statutes, section 216C.06, subdivision 16; or

(ii) a qualifying thermal project, as defined in Minnesota Statutes, section 216B.2411, subdivision 2, that includes modifications made to a distribution system to distribute heating or cooling throughout a building.

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

## ARTICLE 6

### MISCELLANEOUS ENERGY PROGRAMS

#### Section 1. **ENERGY PROGRAMS IN COMMERCIAL AND INDUSTRIAL BUILDINGS.**

(a) The commissioner shall establish a program to award grants to commercial and industrial facilities for the purpose of installing energy-efficiency improvements or creating renewable energy sources to generate electricity or to heat or cool a building. To be eligible to receive a grant, a project must:

(1) begin commercial operation after July 1, 2009; and

(2) meet all other conditions established under the act.

(b) The commissioner shall develop an application form, application review procedures, criteria that a project must meet in order to be considered for a grant award, procedures and guidelines for project monitoring and evaluation, and other administrative procedures necessary to fully implement a grant program.

(c) For the purposes of this section, "renewable energy source" means:

(i) solar;

(ii) wind;

(iii) hydroelectric;



(iv) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this clause; or

(v) biomass, which includes, without limitation, landfill gas; an anaerobic digester system; and the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge to produce electricity.

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

Sec. 2. **ENERGY EDUCATION, TRAINING, AND DATA SYSTEMS.**

The Office of Energy Security shall establish programs to work with teachers and other energy experts to include energy issues in K-12 curricula; develop training and certification programs for technicians to install and service wind and solar energy systems; and upgrade data systems to enable accurate tracking of energy savings resulting from the conservation improvement program and other state energy programs.

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

Sec. 3. **ENERGY EFFICIENCY GRANTS TO LOCAL GOVERNMENTS.**

The Office of Energy Security shall establish a grant program to award grants to local units of government to enhance energy efficiency and reduce energy use. Energy efficiency and conservation block grant funds may be used for grants for planning, consultant services, energy audits, implementing energy-efficient building codes and inspection services, energy efficiency renovations, street lighting, and the installation of renewable energy devices deployed on public buildings.

ARTICLE 7

OTHER ENERGY APPROPRIATIONS

Section 1. **WEATHERIZATION ASSISTANCE PROGRAM APPROPRIATION.**

Of the funds available to the state of Minnesota from the federal stimulus funding for the weatherization assistance program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$131,937,411 is appropriated to the commissioner of commerce. The funds must be administered consistent with the requirements in article 4, section 1.

Sec. 2. **ENERGY EFFICIENCY AND CONSERVATION BLOCK PROGRAM APPROPRIATION.**

Of the funds available to the state of Minnesota from the federal stimulus funding for the Energy Efficiency and Conservation Block Grant Program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$10,644,100, is appropriated to the commissioner of commerce. The appropriation must be distributed as follows:

(1) \$6,546,121 is for energy efficiency grants to local government in article 6, section 3; and

(2) \$4,097,979, is for local government and school district buildings consistent with the requirements in article 4, section 2.

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

Sec. 3. **STATE ENERGY PROGRAM APPROPRIATION.**

Of the funds available to the state of Minnesota from the federal stimulus funding for the State Energy Program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$54,172,000 is appropriated to the commissioner of commerce. Of this amount:

(1) \$10,650,000 is for local government and school district buildings consistent with the requirements in article 4, section 2;

(2) \$8,000,000 is for state government buildings consistent with the requirements in article 4, section 3;

(3) \$12,000,000 is for the residential energy financing program in article 4, section 5;

(4) \$12,000,000 is for renewable energy programs, including, but not limited to, the programs specified in article 5;

(6) \$5,000,000 is for grants to commercial and industrial facilities for energy efficiency and renewable energy projects in article 6, section 1;

(7) \$5,022,000 is for energy education, training, and information and data systems in article 6, section 2; and

(8) \$1,500,000 is for a grant to the Board of Trustees of the Minnesota State Colleges and Universities for the International Renewable Energy Technology Institute (IRETI) to be located at Minnesota State University, Mankato, as a public and private partnership to support applied research in renewable energy and energy efficiency to aid in the transfer of technology from Sweden to Minnesota and to support technology commercialization from companies located in Minnesota and throughout the world.

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

ARTICLE 8

DEPARTMENT OF COMMERCE; OTHER REGULATORY PROVISIONS

Section 1. Minnesota Statutes 2008, section 47.58, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, credit union subject to chapter 52, savings bank organized and operated pursuant to chapter 50, savings association subject to chapter 51A, any residential mortgage originator subject to chapter 58, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings association supervised by the Federal Home Loan Bank Board or federally chartered credit union supervised by the National Credit Union Administration, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the meanings given them:

(a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

(b) "Consumer small loan lender" is a financial institution as defined in section 47.59 or a ~~person~~ business entity registered with the commissioner and engaged in the business of making consumer small loans.

Sec. 3. Minnesota Statutes 2008, section 47.60, subdivision 3, is amended to read:

Subd. 3. **Filing.** Before a ~~person~~ business entity other than a financial institution as defined by section 47.59 engages in the business of making consumer small loans to Minnesota residents, the ~~person~~ business entity shall file with the commissioner as a consumer small loan lender. The filing must be on a form prescribed by the commissioner together with a fee of \$250 for each place of business and contain the following information in addition to the information required by the commissioner:

(1) evidence that the filer has available for the operation of the business at the location specified, liquid assets of at least \$50,000; and

(2) a biographical statement on the principal person responsible for the operation and management of the business to be certified.

Revocation of the filing ~~and the right to engage in the business of a consumer small loan lender~~ is the same as in the case of a regulated lender license in section 56.09.

For purposes of this subdivision, "business entity" includes one that does not have a physical location in Minnesota that makes a consumer small loan electronically via the Internet.

Sec. 4. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation.** A ~~person~~ business entity or the ~~person's~~ entity's members, officers, directors, agents, and employees who violate or participate in the violation of any of the provisions of this section may be liable in the same manner as in section 56.19.

Sec. 5. Minnesota Statutes 2008, section 48.21, is amended to read:

#### **48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.**

Subdivision 1. **Specific restrictions.** (a) A bank may purchase, carry as an asset, and convey real estate only:

(1) as provided for in section 47.10;

(2) if acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;

(3) if conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;

(4) if acquired by sale on execution or judgment of a court in its favor; or

(5) if reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

(b) Real estate acquired under clauses (2) to (5) shall be carried as an asset only in accordance with rules the commissioner prescribes. The maximum period for holding other real estate as an asset shall be five years, provided that upon application to the commissioner, the commissioner may approve the possession of such real estate by a bank for a period longer than five years, but not to exceed an additional five years, if:

(1) the bank has made a good faith attempt to dispose of the real estate within the initial five-year period; or

(2) disposal within the initial five-year period would be detrimental to the bank.

Subd. 2. **Real estate holdings not bank liabilities.** Real estate owned by a bank as a result of actions authorized in clauses (2) to (5) of subdivision 1 and subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. **Real estate holdings not sold; authority to write off.** Notwithstanding any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to clauses (2) to (5) of subdivision 1 is not sold or otherwise disposed of within the maximum period ~~established by rule by the commissioner~~, the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

Sec. 6. Minnesota Statutes 2008, section 58.05, subdivision 3, is amended to read:

Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c), a financial institution under clause (2), or by order of the commissioner under clause (6); or under section 58.04, subdivision 2, paragraph (b), as a financial institution under clause ~~(3)~~ (4), or by order of the commissioner under clause ~~(7)~~ (8).

Sec. 7. Minnesota Statutes 2008, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) ~~An~~ A residential mortgage originator applicant must submit one of the following:

(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;

(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or

(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the ~~date~~ dates that mandatory testing, initial education ~~was~~, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;

(iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

(iv) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

(v) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000;

(vi) complies with federal and state tax laws; and

(vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 8. Minnesota Statutes 2008, section 58.126, is amended to read:

**58.126 EDUCATION AND TESTING REQUIREMENT.**

(a) No individual shall engage in residential mortgage origination or make residential mortgage loans, whether as an employee or independent contractor, before the completion of ~~15~~ 20 hours of educational training which has been approved by the commissioner, and covering state and federal laws concerning residential mortgage lending.

(b) In addition to the initial education requirements in paragraph (a), each individual must also complete eight hours of continuing education annually. The education must include:

(1) three hours of federal law and regulations;

(2) two hours of ethics, which must include fraud, consumer protection, and fair lending; and

(3) two hours of standards governing nontraditional mortgage lending.

(c) The commissioner may by rule establish testing requirements for individuals subject to the requirements of paragraphs (a) and (b). An individual must satisfy the testing requirements established by the commissioner before engaging in residential mortgage loan origination or making residential mortgage loans.

**EFFECTIVE DATE.** This section is effective September 1, 2009, and applies to license applications and renewals made on or after that date.

Sec. 9. Minnesota Statutes 2008, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:

(1) fail to maintain a trust account to hold trust funds received in connection with a residential mortgage loan;

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, clause (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208, and 47.58;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person may rely upon a written representation by the residential mortgage originator that it is in compliance with the licensing requirements of this chapter;

(15) claim to represent a licensee or exempt person, unless the person is an employee of the licensee or exempt person or unless the person has entered into a written agency agreement with the licensee or exempt person;

(16) fail to comply with the record keeping and notification requirements identified in section 58.14 or fail to abide by the affirmations made on the application for licensure;

(17) represent that the licensee or exempt person is acting as the borrower's agent after providing the nonagency disclosure required by section 58.15, unless the disclosure is retracted and the licensee or exempt person complies with all of the requirements of section 58.16;

(18) make, provide, or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or, if the originator does not utilize credit scoring or if a credit score is unavailable, then comparable underwriting data, indicates that the borrower may qualify for a residential mortgage loan, available from or through the originator, that is of a higher investment grade, unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest rate and/or lower discount points, and consents in writing to receipt of the lower investment grade loan;

For purposes of this section, "investment grade" refers to a system of categorizing residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or "subprime"; (ii) commonly designated by an alphabetical character with "A" being the highest investment grade; and (iii) are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or representation relating to the business of residential mortgage loans that is false, deceptive, or misleading;



(20) advertise loan types or terms that are not available from or through the licensee or exempt person on the date advertised, or on the date specified in the advertisement. For purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case;

(22) violate section 82.49, relating to table funding;

(23) make, provide, or arrange for a residential mortgage loan all or a portion of the proceeds of which are used to fully or partially pay off a "special mortgage" unless the borrower has obtained a written certification from an authorized independent loan counselor that the borrower has received counseling on the advisability of the loan transaction. For purposes of this section, "special mortgage" means a residential mortgage loan originated, subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit organization, that bears one or more of the following nonstandard payment terms which substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal or interest are not required or can be deferred under specified conditions; (iii) principal or interest is forgivable under specified conditions; or (iv) where no interest or an annual interest rate of two percent or less is charged in connection with the loan. For purposes of this section, "authorized independent loan counselor" means a nonprofit, third-party individual or organization providing homebuyer education programs, foreclosure prevention services, mortgage loan counseling, or credit counseling certified by the United States Department of Housing and Urban Development, the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks America;

(24) make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully indexed rate and a repayment schedule which achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan, including criteria established by the United States Department of Veterans Affairs or the United States Department of Housing and Urban Development for interest rate reduction refinancing loans or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; however, such other criteria must be verified through reasonably reliable methods and documentation. The mortgage originator's analysis of the borrower's reasonable ability to repay may include, but is not limited to, consideration of the following items, if verified: (1) the borrower's current and expected income; (2) current and expected cash flow; (3) net worth and other financial resources other than the consumer's equity in the dwelling that secures the loan; (4) current financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7) employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax returns; (12) pension statements; and (13) employment payment records, provided that no mortgage originator shall disregard facts and circumstances that indicate that the financial or other information submitted by the consumer is inaccurate or incomplete. A statement by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources or sole reliance on any single item listed above is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay.

(25) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;

(26) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change from the amount previously disclosed. A residential mortgage originator need not make this disclosure concerning a refinancing loan if the residential mortgage originator knows that the borrower's existing loan that is anticipated to be refinanced does not have an escrow account; or

(27) make, provide, or arrange for a residential mortgage loan, other than a reverse mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance with any repayment option offered pursuant to the terms of the loan will result in negative amortization during any six-month period.

(b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage loan originated or purchased by a state agency or a tribal or local unit of government. This paragraph supersedes any inconsistent provision of this chapter.

Sec. 10. Minnesota Statutes 2008, section 60A.124, is amended to read:

**60A.124 INDEPENDENT AUDIT.**

The audit report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under section ~~60A.129~~ 60A.1291, subdivision ~~3 2, paragraph (a)~~, should contain a statement as to whether anything, in connection with their audit, came to their attention that caused them to believe that the insurer failed to adopt and consistently apply the valuation procedure as required by sections 60A.122 and 60A.123.

Sec. 11. **[60A.1291] ANNUAL AUDIT.**

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

(a) "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed or is required to be licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

(b) "Audit committee" means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this section at the election of the controlling person under subdivision 15, paragraph (e). If an audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the audit committee.

(c) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(d) "Independent board member" has the same meaning as described in subdivision 15, paragraph (c).

(e) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and includes those policies and procedures that:

(1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c).

(f) "SEC" means the United States Securities and Exchange Commission.

(g) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated under it.

(h) "Section 404 report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in paragraph (a).

(i) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (section 10A(i) of the Securities Exchange Act of 1934); (ii) the audit committee independence requirements of Section 301 (section 10A(m)(3) of the Securities Exchange Act of 1934); and (iii) the internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Subd. 2. **Filing requirements.** Every insurance company doing business in this state, including fraternal benefit societies, reciprocal exchanges, service plan corporations licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter 62G, unless exempted by the commissioner pursuant to subdivision 9, paragraph (a), or by subdivision 18, shall have an annual audit of the financial activities of the most recently completed calendar year performed by an independent certified public accountant, and shall file the report of this audit with the commissioner on or before June 1 for the immediately preceding year ending December 31. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days before the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

If an extension is granted in accordance with this subdivision, a similar extension of 30 days is granted to the filing of management's report of internal control over financial reporting.

Every insurer required to file an annual audited financial report pursuant to this subdivision shall designate a group of individuals as constituting its audit committee. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this subdivision at the election of the controlling person.

Subd. 3. **Exemptions.** Foreign and alien insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from this subdivision if a copy of the audited financial report, communication of internal control related matters noted in an audit, accountant's letter of qualifications, and report on significant deficiencies in internal controls, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in subdivision 2 (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in subdivision 11. Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified. This subdivision does not prohibit or in any way limit the commissioner from ordering, conducting, and performing examinations of insurers under the authority of this chapter.

Subd. 4. **Contents of annual audit; financial report.** (a) The annual audited financial report must report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year ended. The annual audited financial report must include:

- (1) a report of an independent certified public accountant;
- (2) a balance sheet reporting admitted assets, liabilities, capital, and surplus;
- (3) a statement of operations;
- (4) a statement of cash flows;
- (5) a statement of changes in capital and surplus; and
- (6) notes to the financial statements.

(b) The notes required under paragraph (a) are those required by the appropriate National Association of Insurance Commissioners (NAIC) annual statement instructions and National Association of Insurance Commissioners Accounting Practices and Procedures Manual and include reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under section 60A.13, subdivision 1, with a written description of the nature of these differences.

(c) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement must be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted. The amounts may be rounded to the nearest \$1,000, and all immaterial amounts may be combined.

Subd. 5. **Designation of independent certified public accountant.** Each insurer required by this section to file an annual audited financial report must notify the commissioner in writing of the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement. The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance regulatory authority of the state of domicile. The letter shall affirm that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying the exceptions believed to be appropriate. A copy of the accountant's letter shall be filed with the commissioner.

Subd. 6. **Report of disagreements.** If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall notify the commissioner of this event within five business days. Within ten business days of this notification, the insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused that person to make reference to the subject matter of the disagreement in connection with the opinion on the financial statements. The disagreements required to be reported in response to this subdivision include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subdivision are those disagreements between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for any disagreement. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

Subd. 7. **Qualifications of independent certified public accountant.** (a) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed or is required to be licensed to practice, or for a Canadian or British company, that is not a chartered accountant. Except as otherwise provided, an independent certified public accountant must be recognized as qualified as long as the person conforms to the standards of the person's profession, as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Public Accountancy or similar code and the person is properly licensed in good standing with all required state boards of accountancy.

(b) The lead or coordinating audit partner, having primary responsibility for the audit, may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the commissioner for relief from this rotation requirement on the basis of unusual circumstances. This application must be made at least 30 days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(1) number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(2) premium volume of the insurer; or

(3) number of jurisdictions in which the insurer transacts business.

The insurer shall file, with its annual statement filing, the approval for relief from this paragraph with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(c) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(1) bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) financial information systems design and implementation;

(3) appraisal or valuation services, fairness opinions, or contribution in-kind reports;

(4) actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification on an insurer's reserves if the following conditions have been met:

(i) neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(ii) the insurer has competent personnel, or engages a third-party actuary, to estimate the loss reserves for which management takes responsibility; and

(iii) the accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the loss reserves;

(5) internal audit outsourcing services;

(6) management functions or human resources;

(7) broker or dealer, investment adviser, or investment banking services;

(8) legal services or expert services unrelated to the audit; and

(9) any other services that the commissioner determines, by rule, are impermissible.

(d) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any audited financial report, prepared in whole or in part by any natural person who has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, United States Code, title 18, sections 1961 to 1968, or any dishonest conduct or practices under federal or state law, has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section, or has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this section.

(e) The commissioner, after notice and hearing under chapter 14, may find that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this section.

**Subd. 8. Exemptions to qualifications of certified public accountant.** (a) Insurers having direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exemption from subdivision 7, paragraph (c). The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the commissioner finds, upon review of this statement, that compliance with this section would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(b) A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in subdivision 7, paragraph (c), only if the activity is approved in advance by the audit committee, in accordance with paragraph (c).

(c) All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer must be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(1) the aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(2) the services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(3) the services are promptly brought to the attention of the audit committee and approved before the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(d) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by paragraph (c). The decisions of any member to whom this authority is delegated must be presented to the full audit committee at each of its scheduled meetings.

(e) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This paragraph applies only to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from this paragraph on the basis of unusual circumstances.

(f) The insurer shall file, with its annual statement filing, the approval for relief with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

**Subd. 9. Consolidated or combined audits.** (a) The commissioner may allow an insurer to file consolidated or combined audited financial statements required by subdivision 2, in lieu of separate annual audited financial statements, where it can be demonstrated that an insurer is part of a group of insurance companies that has a pooling or 100 percent reinsurance agreement which substantially affects the solvency and integrity of the reserves of the insurer and the insurer cedes all of its direct and assumed business to the pool. An affiliated insurance company not meeting these requirements may be included in the consolidated or combined audited financial statements, if the company's total admitted assets are less than five percent of the consolidated group's total admitted assets. If these circumstances exist, then the company may file a written application to file consolidated or combined audited financial statements. This application must be for a specified period.

(b) Upon written application by a domestic insurer, the commissioner may authorize the domestic insurer to include additional affiliated insurance companies in the consolidated or combined audited financial statements. A foreign insurer must obtain the prior written authorization of the commissioner of its state of domicile in order to submit an application for authority to file consolidated or combined audited financial statements. This application must be for a specified period.

(c) A consolidated annual audit filing must include a columnar consolidated or combining worksheet. Amounts shown on the audited consolidated or combined financial statement must be shown on the worksheet. Amounts for each insurer must be stated separately. Noninsurance operations may be shown on the worksheet on a combined or individual basis. Explanations of consolidating or eliminating entries must be shown on the worksheet. A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers must be included on the worksheet.

Subd. 10. **Scope of audit and report of independent certified public accountant.** Financial statements furnished pursuant to subdivision 4 must be examined by an independent certified public accountant. The audit of the insurer's financial statements must be conducted in accordance with generally accepted auditing standards. In accordance with AICPA Statement on Auditing Standards (SAS) No. 109, Understanding the Entity and its Environment and Assessing the Risks of Material Misstatement, or its replacement, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by SAS No. 109, for those insurers required to file a management's report of internal control over financial reporting pursuant to subdivision 17, the independent certified public accountant should consider (as that term is defined in SAS No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should be given to other procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Subd. 11. **Notification of adverse financial condition.** The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to provide written notice within five business days to the board of directors of the insurer or its audit committee of any determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of sections 60A.07, 66A.32, and 66A.33 as of that date. An insurer required to file an annual audited financial report who received a notification of adverse financial condition from the accountant shall file a copy of the notification with the commissioner within five business days of the receipt of the notification. The insurer shall provide the independent certified public accountant making the notification with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive the evidence within the required five-day period, the independent certified public accountant shall furnish to the commissioner a copy of the notification to the board of directors or its audit committee within the next five business days. No independent certified public accountant is liable in any manner to any person for any statement made in connection with this subdivision if the statement is made in good faith in compliance with this subdivision. If the accountant becomes aware of facts which might have affected the audited financial report after the date it was filed, the accountant shall take the action prescribed by AU section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report of the Professional Standards issued by the American Institute of Certified Public Accountants, or its replacement.

Subd. 12. **Communication of internal control related matters noted in an audit.** In addition to the annual audited financial report, each insurer shall furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication must be prepared by the accountant within 60 days after the filing of the annual audited financial report, and must contain a description of any unremediated material weakness, as the term material weakness is defined by SAS No. 115, Communicating Internal Control Related Matters Identified in an Audit, as of



December 31 immediately preceding so as to coincide with the audited financial report discussed in subdivision 2 in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

Subd. 13. **Accountant's letter of qualification.** The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that the accountant is independent with respect to the insurer and conforms to the standards of the accountant's profession as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Accountancy or similar code; the background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant; that the accountant understands that the annual audited financial report and the opinion on it will be filed in compliance with this statute and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers; that the accountant consents to the requirements of subdivision 14 and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the work papers, as defined in subdivision 14; a representation that the accountant is properly licensed in good standing by the appropriate state licensing authorities and is a member in good standing in the American Institute of Certified Public Accountants; and a representation that the accountant complies with subdivision 7. Nothing in this section prohibits the accountant from utilizing staff the accountant deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

Subd. 14. **Availability and maintenance of independent certified public accountants' work papers.** Work papers are the records kept by the independent certified public accountant of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the independent certified public accountant's audit of the financial statements of an insurer. Work papers may include audit planning documents, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the audit of the financial statements of an insurer and that support the accountant's opinion. Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the work papers prepared in the conduct of the audit and any communications related to the audit between the accountant and the insurer. The work papers must be made available at the offices of the insurer, at the offices of the commissioner, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than seven years after the period reported upon, provided retention of the working papers beyond the seven years is not required by other professional or regulatory requirements. In the conduct of the periodic review by the examiners, it must be agreed that photocopies of pertinent audit work papers may be made and retained by the commissioner. These copies shall be part of the commissioner's work papers and must be given the same confidentiality as other examination work papers generated by the commissioner.

Subd. 15. **Requirements for audit committee.** (a) The audit committee must be directly responsible for the appointment, compensation, and oversight of the work of any accountant including resolution of disagreements between management and the accountant regarding financial reporting for the purpose of preparing or issuing the audited financial report or related work pursuant to this regulation. Each accountant shall report directly to the audit committee.

(b) Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to paragraph (e) and subdivision 1, paragraph (b).

(c) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise nonindependent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(e) To exercise the election of the controlling person to designate the audit committee for purposes of this section, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification must be made timely before the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election remains in effect for perpetuity, until rescinded.

(f) The audit committee shall require the accountant that performs for an insurer any audit required by this section to timely report to the audit committee in accordance with the requirements of SAS No. 114, The Auditor's Communication with Those Charged with Governance, including:

(1) all significant accounting policies and material permitted practices;

(2) all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(3) other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(g) If an insurer is a member of an insurance holding company system, the reports required by paragraph (f) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(h) The proportion of independent audit committee members shall meet or exceed the following criteria:

(1) for companies with prior calendar year direct written and assumed premiums \$0 to \$300,000,000, no minimum requirements;

(2) for companies with prior calendar year direct written and assumed premiums over \$300,000,000 to \$500,000,000, majority of members must be independent; and

(3) for companies with prior calendar year direct written and assumed premiums over \$500,000,000, 75 percent or more must be independent.

(i) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the commissioner for a waiver from the requirements of this subdivision based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this subdivision with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

This subdivision does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly-owned subsidiary of a SOX compliant entity.

**Subd. 16. Conduct of insurer in connection with the preparation of required reports and documents.** (a) No director or officer of an insurer shall, directly or indirectly:

(1) make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, or communication required under this section; or

(2) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review, or communication required under this section.

(b) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this section if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(c) For purposes of paragraph (b), actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead, or fraudulently influence an accountant:

(1) to issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards;

(2) not to perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(3) not to withdraw an issued report; or

(4) not to communicate matters to an insurer's audit committee.

**Subd. 17. Management's report of internal control over financial reporting.** (a) Every insurer required to file an audited financial report pursuant to this section that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more, shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in subdivision 1. The report must be filed with the commissioner along with the communication of internal control related matters noted in an audit described under subdivision 12. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(b) Notwithstanding the premium threshold in paragraph (a), the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as pursuant to sections 606.20 to 606.22.

(c) An insurer or a group of insurers that is:

(1) directly subject to Section 404;

(2) part of a holding company system whose parent is directly subject to Section 404;

(3) not directly subject to Section 404 but is a SOX compliant entity; or

(4) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity;

may file its or its parent's Section 404 report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file (i) a report under this subdivision, or (ii) the Section 404 report and a report under this subdivision for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

(d) Management's report of internal control over financial reporting shall include:

(1) a statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) a statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) a statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) a statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) a statement regarding the inherent limitations of internal control systems; and

(7) signatures of the chief executive officer and the chief financial officer or equivalent position or title.

(e) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in paragraph (d), are made. Management may base its assertions, in part, upon its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

(1) Management has discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(2) Management's report on internal control over financial reporting, required by paragraph (a), and any documentation provided in support of the report during the course of a financial condition examination, must be kept confidential by the Department of Commerce.

Subd. 18. **Exemptions.** (a) Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of this section. In order to receive an exemption, an insurer must demonstrate to the satisfaction of the commissioner that compliance would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from the denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing must be held in accordance with chapter 14. Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. An exemption may not be granted until the insurer presents an alternative method satisfying the purposes of this section. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing must be held in accordance with chapter 14.

(b) This section applies to all insurers, unless otherwise indicated, required to file an annual audit by subdivision 2, except insurers having less than \$1,000,000 of direct written premiums in this state in any calendar year and fewer than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of the calendar year, are exempt from this section for that year, unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities, except that insurers having assumed premiums from reinsurance contracts or treaties of \$1,000,000 or more are not exempt.

Subd. 19. **Canadian and British companies.** (a) In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

(b) For these insurers the letter required in subdivision 5 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under subdivision 2, and shall affirm that the opinion expressed is in conformity with those requirements.

Subd. 20. **Commercial mortgage loan valuation procedures.** A report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under subdivision 2, shall be filed and contain a statement as to whether anything in connection with the audit came to the accountant's attention that caused the accountant to believe that the insurer failed to adopt and consistently apply the valuation procedures as required by sections 60A.122 and 60A.123.

Subd. 21. **Examinations.** (a) The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this section conducted by examiners under section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioners, Insurance Regulatory Information Systems, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this section must be compliance examinations, targeted examinations, and comprehensive examinations.

(b) Compliance examinations will consist of a review of the accountant's workpapers defined under this section and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the Department of Commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(c) Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

(d) Comprehensive examinations will be performed when the report of the accountant as provided for in subdivision 7, paragraph (b), the notification required by subdivision 7, paragraph (c), the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

(e) Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to the examination.

Subd. 22. **Penalties.** An annual statement, report, or document related to the business of insurance must not be filed with the commissioner or issued to the public if it is signed by anyone who is represented in the instrument as an "accountant," unless the person is qualified as defined by this section. A violation of this subdivision is a violation of section 72A.19 and punishable in accordance with section 72A.25.

**EFFECTIVE DATE.** (a) Domestic insurers retaining a certified public accountant on the effective date of this section who qualify as independent shall comply with this section for the year ending December 31, 2010, and each year thereafter unless the commissioner permits otherwise.

(b) Domestic insurers not retaining a certified public accountant on the effective date of this section who qualifies as independent shall meet the following schedule for compliance unless the commissioner permits otherwise.

(1) As of December 31, 2010, file with the commissioner an audited financial report.

(2) For the year ending December 31, 2010, and each year thereafter, such insurers shall file with the commissioner all reports and communication required by this section.

(c) Foreign insurers shall comply with this section for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.

(d) The requirements of subdivision 7, paragraph (b), are in effect for audits of the year beginning January 1, 2010, and thereafter.

(e) The requirements of subdivision 15 are in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium has one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination has one calendar year following the date of acquisition or combination to comply with the independence requirements.

(f) An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements has two years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. Likewise, an insurer acquired in a business combination has two calendar years following the date of acquisition or combination to comply with the reporting requirements.

(g) The requirements and provisions contained in this section are effective January 1, 2010, and thereafter.

Sec. 12. Minnesota Statutes 2008, section 60B.03, subdivision 15, is amended to read:

Subd. 15. **Insolvency.** "Insolvency" means:

(a) For an insurer organized under sections 67A.01 to 67A.26, the inability to pay any uncontested debt as it becomes due ~~or any other loss within 30 days after the due date specified in the first assessment notice issued pursuant to section 67A.17.~~

(b) For any other insurer, that it is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of (1) any capital and surplus required by law to be constantly maintained, or (2) its authorized and issued capital stock. For purposes of this subdivision, "assets" includes one-half of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were 100 percent collection of an assessment at the rate of ten mills per dollar of insurance written by it and in force.

Sec. 13. Minnesota Statutes 2008, section 60L.02, subdivision 3, is amended to read:

Subd. 3. **Additional requirements.** (a) In order to be eligible to be governed by sections 60L.01 to 60L.15, the insurer must meet the requirements specified under this subdivision.

(b) The insurer shall:

(1) have been in continuous operation for a minimum of five years; and

(2) maintain a minimum claims-paying, financial strength, or equivalent rating from at least one nationally recognized statistical rating organization in one of the organization's three highest rating categories for the time period during which sections 60L.01 to 60L.15 apply to the insurer. For purposes of this subdivision, the rating must be based on a review of the insurer by the nationally recognized statistical rating organization with the cooperation of the insurer; must not depend on a guarantee or other credit enhancement from another entity; and must not be modified or otherwise qualified to show dependence of the rating on the performance or a contractual obligation of, or the insurer's affiliation with, another insurer.

(c) The insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer shall employ at least one individual as a professional investment manager for the insurer's investments whom the board of directors or trustees of the insurer finds is qualified on the basis of experience, education or training, competence, personal integrity, and who conducts professional investment management activities in accordance with the Code of Ethics and Standards of Professional Conduct of the Association for Investment Management and Research. For purposes of complying with this paragraph, an employee of an affiliate may only be used if they are responsible for managing the insurer's investments.

(d) The board of directors of the insurer must annually adopt a resolution finding that the insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer has employed a professional investment manager for the insurer's investments with sufficient expertise and has sufficient other resources to implement and monitor the insurer's investment policies and strategies.

(e) In the report required under section ~~60A.129~~ 60A.1291, subdivision ~~3~~ 12, ~~paragraph (4)~~, the insurer's independent auditor shall not have identified any significant deficiencies in the insurer's internal control structure related to investments during any of the five years immediately preceding the date on which sections 60L.01 to 60L.15 begin to apply to the insurer, and as long as sections 60L.01 to 60L.15 apply to the insurer.

Sec. 14. **[61A.258] PRENEED INSURANCE PRODUCTS; MINIMUM MORTALITY STANDARDS FOR RESERVES AND NONFORFEITURE VALUES.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(1) "2001 CSO Mortality Table (2001 CSO)" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table (2001 CSO) is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table (2001 CSO)" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables;

(2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983; and

(3) "preneed insurance" is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

Subd. 2. **Minimum valuation mortality standards.** For preneed insurance contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

Subd. 3. **Minimum valuation interest rate standards.** (a) The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in section 61A.25.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in section 61A.24.

Subd. 4. **Minimum valuation method standards.** (a) The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in section 61A.25.

(b) The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in section 61A.24.

**EFFECTIVE DATE; TRANSITION RULES.** (a) This section is effective January 1, 2009, and applies to preneed insurance policies and certificates issued on or after that date.

(b) For preneed insurance policies issued on or after the effective date of this section and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.



(c) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this section and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

(1) a complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

(2) a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

(3) supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this section and using the 2001 CSO as a minimum standard for reserves.

(d) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

Sec. 15. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

Subd. 4. **Limitation of benefits.** The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (5), with respect to any one life, regardless of the number of policies or contracts:

(i) ~~\$300,000~~ \$500,000 in life insurance death benefits, but not more than ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

(iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement annuities or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid, on or before the date of impairment or insolvency; or

(3) subject to the limitations in clauses (5) and (6), with respect to each individual resident participating in a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values;

(4) where no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value;

(5) in no event shall the association be liable to expend more than ~~\$300,000~~ \$500,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii), (iv), and clause (4), and any one individual under clause (3);

(6) in no event shall the association be liable to expend more than ~~\$7,500,000~~ \$10,000,000 with respect to all unallocated annuities of a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992. If total claims from a plan exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among the claimants;

(7) for purposes of applying clause (2)(ii) and clause (5), with respect only to health insurance benefits, the term "any one life" applies to each individual covered by a health insurance policy;

(8) where covered contractual obligations are equal to or less than the limits stated in this subdivision, the association will pay the difference between the covered contractual obligations and the amount credited by the estate of the insolvent or impaired insurer, if that amount has been determined or, if it has not, the covered contractual limit, subject to the association's right of subrogation;

(9) where covered contractual obligations exceed the limits stated in this subdivision, the amount payable by the association will be determined as though the covered contractual obligations were equal to those limits. In making the determination, the estate shall be deemed to have credited the covered person the same amount as the estate would credit a covered person with contractual obligations equal to those limits; or

(10) the following illustrates how the principles stated in clauses (8) and (9) apply. The example illustrated concerns hypothetical claims subject to the limit stated in clause (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply to claims subject to any limits stated in this subdivision.

CONTRACTUAL OBLIGATIONS OF:

	\$50,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$50,000
25% recovery from estate	\$12,500	\$37,500
50% recovery from estate	\$25,000	\$25,000
75% recovery from estate	\$37,500	\$12,500
	\$100,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$25,000	\$75,000
50% recovery from estate	\$50,000	\$50,000
75% recovery from estate	\$75,000	\$25,000
	\$200,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$50,000	\$75,000
50% recovery from estate	\$100,000	\$50,000
75% recovery from estate	\$150,000	\$25,000

For purposes of this subdivision, the commissioner shall determine the discount rate to be used in determining the present value of annuity benefits.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to member insurers who are first determined to be impaired or insolvent on or after that date. Member insurers who are subject to an order of impairment in effect on the effective date but are not declared insolvent until after the effective date shall continue to be governed by the law in effect prior to the effective date.

Sec. 16. Minnesota Statutes 2008, section 61B.28, subdivision 4, is amended to read:

Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision nor is it a violation of this subdivision to explain verbally to an applicant or potential applicant the coverage provided by the Minnesota Life and Health Insurance Guaranty Association at any time during the application process or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. ~~A person violating this section is guilty of a misdemeanor.~~

Sec. 17. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a), is as follows:

" .....  
.....  
.....  
(insert name, current address, and telephone number of insurer)

NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN  
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH  
INSURANCE GUARANTY ASSOCIATION LAW

If the insurer that issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer.

In addition, residents of Minnesota who purchase life insurance, annuities, or health insurance from insurance companies authorized to do business in Minnesota are protected, **SUBJECT TO LIMITS AND EXCLUSIONS**, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

Minnesota Life and Health Insurance Guaranty Association

(insert current address and telephone number)

The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to ~~\$300,000~~ \$500,000. Subject to this ~~\$300,000~~ \$500,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$500,000 in life insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash

withdrawal values for life insurance, ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of annuity benefits for annuities which are part of a structured settlement or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid on or before the date of impairment or insolvency, or if no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value. Unallocated annuity contracts issued to retirement plans, other than defined benefit plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values, for Minnesota residents covered by the plan provided, however, that the association shall not be responsible for more than ~~\$7,500,000~~ \$10,000,000 in claims from all Minnesota residents covered by the plan. If total claims exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among all claimants. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.

THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.

THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE THIS NOTICE."

Additional language may be added to the notice if approved by the commissioner prior to its use in the form. This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 18. Minnesota Statutes 2008, section 67A.01, is amended to read:

**67A.01 NUMBER OF MEMBERS REQUIRED, PROPERTY AND TERRITORY.**

Subdivision 1. Number of members. (a) It shall be lawful for any number of persons, not less than 25, residing in adjoining ~~townships~~ counties in this state, who shall collectively own property worth at least \$50,000, to form themselves into a corporation for mutual insurance against loss or damage by the perils listed in section 67A.13.

~~(b) Except as otherwise provided in this section, the company shall operate in no more than 150 adjoining townships in the aggregate at the same time. The company may, if approval has been granted by the commissioner, operate in more than 150 adjoining townships in the aggregate at the same time, subject to a maximum of 300 townships. If the company confines its operations to one county it may transact business in that county by so providing in its certificate of incorporation. In case of merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies, but the territory of the surviving company in the merger must not be larger than 300 townships.~~

Subd. 2. Authorized territory. (a) A township mutual fire insurance company may be authorized to write business in up to nine adjoining counties in the aggregate at the same time. If policyholder surplus is at least \$500,000 as reported in the company's last annual financial statement filed with the commissioner, the company

may, if approval has been granted by the commissioner, be authorized to write business in ten or more counties in the aggregate at the same time, subject to a maximum of 20 adjoining counties, in accordance with the following schedule:

<u>Number of Counties</u>	<u>Surplus Requirement</u>
<u>10</u>	<u>\$500,000</u>
<u>11</u>	<u>600,000</u>
<u>12</u>	<u>700,000</u>
<u>13</u>	<u>800,000</u>
<u>14</u>	<u>900,000</u>
<u>15</u>	<u>1,000,000</u>
<u>16</u>	<u>1,100,000</u>
<u>17</u>	<u>1,200,000</u>
<u>18</u>	<u>1,300,000</u>
<u>19</u>	<u>1,400,000</u>
<u>20</u>	<u>1,500,000</u>

(b) In the case of a merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies; however, the territory of the surviving company in the merger may not be larger than 20 counties.

(c) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory having a population less than 25,000. A township mutual may continue to write new and renewal insurance once the population increases to 25,000 or greater provided that amended and restated articles are filed with the commissioner along with a certification that such city's population has increased to 25,000 or greater.

(d) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, if approval has been granted by the commissioner. No township mutual fire insurance company shall insure any property in cities with a population of 150,000 or greater.

(e) If a township mutual fire insurance company provides evidence to the commissioner that the company had insurance in force on December 31, 2007, in a city within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, the company may write new and renewal insurance on property in that city provided that the company files amended and restated articles by July 31, 2010, naming that city.

Sec. 19. Minnesota Statutes 2008, section 67A.06, is amended to read:

**67A.06 POWERS OF CORPORATION.**

Every corporation formed under the provisions of sections 67A.01 to 67A.26, shall have power:

- (1) to have succession by its corporate name for the time stated in its certificate of incorporation;
- (2) to sue and be sued in any court;
- (3) to have and use a common seal and alter the same at pleasure;
- (4) to acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purpose of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation;

(5) to elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, fix their compensation, and define their powers and duties;

(6) to make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs;

(7) to wind up and liquidate its business in the manner provided by chapter 60B; ~~and~~

(8) to indemnify certain persons against expenses and liabilities as provided in section 302A.521. In applying section 302A.521 for this purpose, the term "members" shall be substituted for the terms "shareholders" and "stockholders-"; and

(9) to eliminate or limit a director's personal liability to the company or its members for monetary damages for breach of fiduciary duty as a director. A company shall not eliminate or limit the liability of a director:

(i) for breach of loyalty to the company or its members;

(ii) for acts or omissions made in bad faith or with intentional misconduct or knowing violation of law;

(iii) for transactions from which the director derived an improper personal benefit; or

(iv) for acts or omissions occurring before the date that the provisions in the articles eliminating or limiting liability become effective.

Sec. 20. Minnesota Statutes 2008, section 67A.07, is amended to read:

**67A.07 PRINCIPAL OFFICE.**

The principal office of a township mutual fire insurance company shall be located in a ~~township or in a city in a township~~ county in which the company is authorized to do business.

Sec. 21. Minnesota Statutes 2008, section 67A.14, subdivision 1, is amended to read:

Subdivision 1. **Kinds of property; property outside authorized territory.** (a) Township mutual fire insurance companies may insure qualified property. Qualified property means dwellings, household goods, appurtenant structures, farm buildings, farm personal property, churches, church personal property, county fair buildings, community and township meeting halls and their usual contents.

(b) Township mutual fire insurance companies may extend coverage to include an insured's secondary property if the township mutual fire insurance company covers qualified property belonging to the insured. Secondary property means any real or personal property that is not considered qualified property for a township mutual fire insurance company to cover under this chapter. The maximum amount of coverage that a township mutual fire insurance company may write for secondary property is 25 percent of the total limit of liability of the policy issued to an insured covering the qualified property.

(c) A township mutual fire insurance company may insure any real or personal property, including qualified or secondary property, subject to the limitations in subdivision 1, paragraph (b), located outside the limits of the territory in which the company is authorized by its certificate or articles of incorporation to transact business, if the company is already covering qualified property belonging to the insured, inside the limits of the company's territory.

(d) A township mutual fire insurance company may insure property temporarily outside of the authorized territory of the township mutual fire insurance company.

Sec. 22. Minnesota Statutes 2008, section 67A.14, subdivision 7, is amended to read:

Subd. 7. **Amount of insurable risk.** No township mutual fire insurance company shall insure or reinsure a single risk or hazard in a larger sum than the greater of \$3,000, or one tenth of its net assets plus two tenths of a mill of its insurance in force; provided that no portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this subdivision.

Sec. 23. **[67A.175] SURPLUS REQUIREMENTS.**

Subdivision 1. **Minimum.** Township mutual fire insurance companies shall maintain a minimum policyholders' surplus of \$300,000 at all times.

Subd. 2. **Corrective action plan; filing.** A township mutual fire insurance company that falls below the \$300,000 minimum surplus requirement must file a corrective action plan with the commissioner. The plan shall state how the company will correct its surplus deficiency. The plan must be submitted within 45 days of the company falling below the minimum surplus level.

Subd. 3. **Corrective action plan; commissioner's notification.** Within 30 days after the submission by a township mutual fire insurance company of a corrective action plan, the commissioner shall notify the insurer whether the plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the plan is unsatisfactory, the notification to the company must set forth the reasons for the determination, and may set forth proposed revisions that will render the plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised corrective action plan that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised plan to the commissioner within 45 days.

Sec. 24. Minnesota Statutes 2008, section 67A.18, subdivision 1, is amended to read:

Subdivision 1. **By member.** Any member may terminate membership in the company by giving written notice or returning the member's policy to the secretary ~~and paying the withdrawing member's share of all existing claims.~~

Sec. 25. **REPEALER.**

Subdivision 1. **Annual audits.** Minnesota Statutes 2008, section 60A.129, is repealed.

Subd. 2. **Township mutual insured properties, joint or partial risks, and assessments.** Minnesota Statutes 2008, sections 67A.14, subdivision 5; 67A.17; and 67A.19, are repealed.

Subd. 3. **Banking procedures; real estate tax records.** Minnesota Rules, part 2675.2180, is repealed.

Subd. 4. **Debt prorating companies.** Minnesota Rules, parts 2675.7100; 2675.7110; 2675.7120; 2675.7130; and 2675.7140, are repealed.

Subd. 5. **Guaranty association; inflation indexing.** Minnesota Statutes 2008, section 61B.19, subdivision 6, is repealed.

## ARTICLE 9

### DEBT MANAGEMENT AND DEBT SETTLEMENT SERVICE

Section 1. Minnesota Statutes 2008, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 332B, 345, and 359, and sections 325D.30 to 325D.42, 326B.802 to 326B.885, and 386.61 to 386.78, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2008, section 46.04, subdivision 1, is amended to read:

Subdivision 1. **General.** The commissioner of commerce, referred to in chapters 46 to 59A; and ~~chapter 332A; and 332B~~ as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, chapter 201, were conferred by law upon the public examiner, and shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of commerce shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once every 24 calendar months. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and licensed regulated lenders, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and rules. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of the commissioner's duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to official duties, the commissioner of commerce has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of commerce as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of duties.

Sec. 3. Minnesota Statutes 2008, section 46.05, is amended to read:

#### **46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.**

Every state bank, savings bank, trust company, savings association, debt management services provider, debt settlement services provider, and other financial institutions shall be at all times under the supervision and subject to the control of the commissioner of commerce. If, and whenever in the performance of duties, the commissioner



finds it necessary to make a special investigation of any financial institution under the commissioner's supervision, and other than a complete examination, the commissioner shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on the commissioner's making a request for payment.

Sec. 4. Minnesota Statutes 2008, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, debt management services provider, debt settlement services provider, and insurance premium finance company organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce.

Sec. 5. Minnesota Statutes 2008, section 325E.311, subdivision 6, is amended to read:

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

(1) to any residential subscriber with that subscriber's prior express invitation or permission; or

(2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

(i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law, unless the organization is a debt management services provider defined in section 332A.02 or a debt settlement services provider defined in section 332B.02;

(ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or

(iii) by a political party as defined under section 200.02, subdivision 6.

Sec. 6. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision to read:

Subd. 2a. **Advertise.** "Advertise" means to solicit business through any means or medium.

Sec. 7. Minnesota Statutes 2008, section 332A.02, subdivision 5, is amended to read:

Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly ~~controlling, controlled by~~, or is under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Sec. 8. Minnesota Statutes 2008, section 332A.02, subdivision 8, is amended to read:

Subd. 8. **Debt management services provider.** "Debt management services provider" means any person offering or providing debt management services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. This term

includes any person to whom duties under a debt management services agreement or debt management services plan are delegated, and does not include services performed by the following when engaged in the regular course of their respective businesses and professions:

- (1) attorneys at law, escrow agents, accountants, broker-dealers in securities;
- (2) state or national banks, trust companies, savings associations, title insurance companies, insurance companies, and all other lending institutions duly authorized to transact business in Minnesota, ~~provided no fee is charged for the service;~~
- (3) persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt management, perform credit services for their employer;
- (4) public officers acting in their official capacities and persons acting as a debt management services provider pursuant to court order;
- (5) any person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;
- (6) the state, its political subdivisions, public agencies, and their employees;
- (7) ~~credit unions and~~ collection agencies, ~~provided no fee is charged for the service~~ that the services are provided to a creditor;
- (8) "qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income Representative Payee System and the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;
- (9) accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (8); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder;
- (10) trustees, guardians, and conservators; ~~and~~
- (11) debt settlement services providers; ~~and~~
- (12) credit unions.

Sec. 9. Minnesota Statutes 2008, section 332A.02, subdivision 9, is amended to read:

Subd. 9. **Debt management services.** "Debt management services" means the provision of any ~~one or more of the following~~ services ~~in connection with debt incurred primarily for personal, family, or household services:~~

- (1) ~~managing the financial affairs of an individual by distributing income or money to the individual's creditors;~~
- (2) ~~receiving funds for the purpose of distributing the funds among creditors in payment or partial payment of obligations of a debtor; or~~

~~(3) adjusting, prorating, pooling, or liquidating the indebtedness of a debtor whereby a debt management services provider assists in managing the financial affairs of a debtor by distributing periodic payments to the debtor's creditors from funds that the debt management services provider receives from the debtor and where the primary purpose of the services is to effect repayment of debt incurred primarily for personal, family, or household services.~~

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt management services regardless of whether or not a fee is charged for such services.

Sec. 10. Minnesota Statutes 2008, section 332A.02, subdivision 10, is amended to read:

Subd. 10. **Debtor.** "Debtor" means the person for whom the debt ~~prorating service is~~ management services are performed.

Sec. 11. Minnesota Statutes 2008, section 332A.02, subdivision 13, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" ~~means any person engaging in or holding out as engaging in the business of negotiating, adjusting, or settling debt incurred primarily for personal, family, or household purposes without holding or receiving the debtor's funds or personal property and without paying the debtor's funds to, or distributing the debtor's property among, creditors~~ has the meaning given in section 332B.02, subdivision 10. The term shall not include persons listed in subdivision 8, clauses (1) to (10).

Sec. 12. Minnesota Statutes 2008, section 332A.04, subdivision 6, is amended to read:

Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor or distribute to the debtor's creditors the amounts required by this chapter ~~and, or has failed to perform any of the services promised in the debt management services agreement between the debtor and registrant, the registrant is in default.~~ The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Sec. 13. Minnesota Statutes 2008, section 332A.08, is amended to read:

### **332A.08 DENIAL OF REGISTRATION.**

The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration upon finding that the applicant:

(1) has submitted an application required under section 332A.04 that contains incorrect, misleading, incomplete, or materially untrue information. An application is incomplete if it does not include all the information required in section 332A.04;

(2) has failed to pay any fee or pay or maintain any bond required by this chapter, or failed to comply with any order, decision, or finding of the commissioner made under and within the authority of this chapter;

(3) has violated any provision of this chapter or any rule or direction lawfully made by the commissioner under and within the authority of this chapter;

(4) or any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt management services or any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(5) has had a registration or license previously revoked or suspended in this state or any other state or the applicant or licensee has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business; or any controlling or affiliated party has been an officer, director, manager, or shareholder owning more than a ten percent interest in a debt management services provider whose registration has previously been revoked or suspended in this state or any other state, or who has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business;

(6) has made any false statement or representation to the commissioner;

(7) is insolvent;

(8) refuses to fully comply with an investigation or examination of the debt management services provider by the commissioner;

(9) has improperly withheld, misappropriated, or converted any money or properties received in the course of doing business;

(10) has failed to have a trust account with an actual cash balance equal to or greater than the sum of the escrow balances of each debtor's account;

(11) has defaulted in making payments to creditors on behalf of debtors as required by agreements between the provider and debtor; ~~or~~

(12) has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; or

(13) has been shown to have engaged in a pattern of failing to perform the services promised.

Sec. 14. Minnesota Statutes 2008, section 332A.10, is amended to read:

#### **332A.10 WRITTEN DEBT MANAGEMENT SERVICES AGREEMENT.**

Subdivision 1. **Written agreement required.** (a) A debt management services provider may not perform any debt management services or receive any money related to a debt management services plan until the provider has obtained a debt management services agreement that contains all terms of the agreement between the debt management services provider and the debtor.

(b) A debt management services agreement must:

(1) be in writing, dated, and signed by the debt management services provider and the debtor;

(2) conspicuously indicate whether or not the debt management services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt management services provider advertised in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to written agreement.** No person may provide debt management services for a debtor or execute a debt management services agreement unless the person first has:

(1) provided the debtor individualized counseling and educational information that, at a minimum, addresses managing household finances, managing credit and debt, budgeting, and personal savings strategies;

(2) prepared in writing and provided to the debtor, in a form that the debtor may keep, an individualized financial analysis and a proposed debt management services plan listing the debtor's known debts with specific recommendations regarding actions the debtor should take to reduce or eliminate the amount of the debts, including written disclosure that debt management services are not suitable for all debtors and that there are other ways, including bankruptcy, to deal with indebtedness;

(3) made a determination supported by an individualized financial analysis that the debtor can reasonably meet the requirements of the proposed debt management services plan and that there is a net tangible benefit to the debtor of entering into the proposed debt management services plan; ~~and~~

(4) prepared, in a form the debtor may keep, a written list identifying all known creditors of the debtor that the provider reasonably expects to participate in the plan and the creditors, including secured creditors, that the provider reasonably expects not to participate; and

(5) disclosed, in addition to the written disclosure on the agreement required under subdivision 1, whether or not the debt management services provider is registered with the Minnesota Department of Commerce and any registration number.

Subd. 3. **Required terms provisions.** (a) Each debt management services agreement must contain the following terms provisions, which must be disclosed prominently and clearly in bold print on the front page of the agreement, segregated by bold lines from all other information on the page:

(1) the origination fee amount to be paid by the debtor and whether all or a portion of the initial origination fee amount is refundable or nonrefundable;

(2) the monthly fee amount or percentage to be paid by the debtor; and

(3) the total amount of fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt management services agreement must also contain the following:

(1) a disclosure that if the amount of debt owed is increased by interest, late fees, over the limit fees, and other amounts imposed by the creditors, the length of the debt management services agreement will be extended and remain in force and that the total dollar charges agreed upon may increase at the rate agreed upon in the original contract agreement;

(2) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332A.11;

(3) a detailed description of all services to be performed by the debt management services provider for the debtor;

(4) the debt management services provider's refund policy; and

(5) the debt management services provider's principal business address and the name and address of its agent in this state authorized to receive service of process.

Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt management services agreement:

- (1) a hold harmless clause;
- (2) a confession of judgment, or a power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceeding;
- (3) a waiver of the right to a jury trial, if applicable, in any action brought by or against a debtor;
- (4) an assignment of or an order for payment of wages or other compensation for services;
- (5) a provision in which the debtor agrees not to assert any claim or defense arising out of the debt management services agreement;
- (6) a waiver of any provision of this chapter or a release of any obligation required to be performed on the part of the debt management services provider; or
- (7) a mandatory arbitration or choice of law clause.

Subd. 5. **New debt management services agreements; modification of existing agreements.** (a) Separate and additional debt management services agreements that comply with this chapter may be entered into by the debt management services provider and the debtor provided that no additional ~~initial~~ origination fee may be charged by the debt management services provider.

(b) Any modification of an existing debt management services agreement, including any increase in the number or amount of debts included in the debt management ~~service~~ services agreement, must be in writing and signed by both parties, except that the signature of the debtor is not required if:

- (1) a creditor is added to or deleted from a debt management services agreement at the request of the debtor or a debtor voluntarily increases the amount of a payment, provided the debt management services provider must provide an updated payment schedule to the debtor within seven days; or
- (2) the payment amount to a creditor in the agreement increases by \$10 or less and the total payment amount to all creditors increases a total of \$20 or less as a result of incorrect or incomplete information provided by the debtor regarding the amount of debt owed a creditor, provided the debt management services provider must notify the debtor of the increase within seven days.

No fees, charges, or other consideration may be demanded from the debtor for the modification, other than an increase in the amount of the monthly maintenance fee established in the original debt management services agreement.

Sec. 15. Minnesota Statutes 2008, section 332A.11, subdivision 2, is amended to read:

Subd. 2. **Notice of debtor's right to cancel.** A debt management services agreement must contain, on its face, in an easily readable ~~typeface~~ type immediately adjacent to the space for signature by the debtor, the following notice: "Right To Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Sec. 16. Minnesota Statutes 2008, section 332A.14, is amended to read:

### **332A.14 PROHIBITIONS.**

~~A registrant~~ (a) No debt management services provider shall not:

- (1) purchase from a creditor any obligation of a debtor;
- (2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;
- (3) advise, counsel, or encourage a debtor to stop paying a creditor ~~until a debt management services plan is in place~~, or imply, infer, encourage, or in any other way indicate, that it is advisable to stop paying a creditor;
- (4) sanction or condone the act by a debtor of ceasing payments or imply, infer, or in any manner indicate that the act of ceasing payments is advisable or beneficial to the debtor;
- ~~(4)~~ (5) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;
- ~~(5)~~ (6) compromise any debts unless the prior written approval of the debtor has been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;
- ~~(6)~~ (7) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;
- ~~(7)~~ (8) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or debt management services provider;
- ~~(8)~~ (9) structure a debt management services agreement that would result in negative amortization of any debt in the plan;
- ~~(9)~~ (10) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;
- ~~(10)~~ (11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management services plan;
- ~~(11)~~ (12) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;
- ~~(12)~~ (13) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;
- ~~(13)~~ (14) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;
- ~~(14)~~ (15) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or
- ~~(15)~~ (16) solicit, demand, collect, require, or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution to a debt management services provider or designee from the debtor.

Sec. 17. **[332B.02] DEFINITIONS.**

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Advertise.** "Advertise" means to solicit business through any means or medium.

Subd. 3. **Aggregate debt.** "Aggregate debt" means the total of principal and interest that is owed by the debtor to the creditors at the time of execution of the debt settlement agreement.

Subd. 4. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 6. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly, or is under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Subd. 7. **Debt settlement services.** "Debt settlement services" means any one or more of the following activities:

(1) offering to provide advice, or offering to act or acting as an intermediary between a debtor and one or more of the debtor's creditors, where the primary purpose of the advice or action is to obtain a settlement for less than the full amount of debt, whether in principal, interest, fees, or other charges, incurred primarily for personal, family, or household purposes including, but not limited to, offering debt negotiation, debt reduction, or debt relief services; or

(2) advising, encouraging, assisting, or counseling a debtor to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the debtor's creditors.

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt settlement services, regardless of whether or not a fee is charged for such services.

Subd. 8. **Debt settlement services agreement.** "Debt settlement services agreement" means the written contract between the debt settlement services provider and the debtor.

Subd. 9. **Debt settlement services plan.** "Debt settlement services plan" means the debtor's individualized package of debt settlement services set forth in the debt settlement services agreement.

Subd. 10. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom duties under a debt management agreement or debt management plan are delegated.

Subd. 11. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Sec. 18. **[332B.03] REQUIREMENT OF REGISTRATION.**

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as



authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a debt on or after August 1, 2009, without complying with this chapter.

Sec. 19. **[332B.04] REGISTRATION.**

Subdivision 1. **Form.** Application for registration to operate as a debt settlement services provider in this state must be made in writing to the commissioner, under oath, in the form prescribed by the commissioner, and must contain:

(1) the full name of each principal of the entity applying;

(2) the address, which must not be a post office box, and the telephone number and, if applicable, the e-mail address, of the applicant;

(3) consent to the jurisdiction of the courts of this state;

(4) the name and address of the registered agent authorized to accept service of process on behalf of the applicant or appointment of the commissioner as the applicant's agent for purposes of accepting service of process;

(5) disclosure of:

(i) whether any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt settlement services or involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(ii) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant or any officer, director, manager, or shareholder owning more than five percent interest in the applicant, unresolved or otherwise, filed or otherwise commenced within the preceding ten years;

(iii) whether the applicant or any person employed by the applicant has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings; and

(iv) whether the applicant's license or registration to provide debt settlement services in any other state has ever been revoked or suspended;

(6) a copy of the applicant's standard debt settlement services agreement that the applicant intends to execute with debtors;

(7) proof of accreditation; and

(8) any other information and material as the commissioner may require.

The commissioner may, for good cause shown, temporarily waive any requirement of this subdivision.

Subd. 2. **Term and scope of registration.** A registration is effective until 11:59 p.m. on December 31 of the year for which the application for registration is filed or until it is surrendered by the registrant or revoked or suspended by the commissioner. The registration is limited solely to the business of providing debt settlement services.

Subd. 3. **Fees; bond.** An applicant for registration as a debt settlement services provider must comply with the requirements of section 332A.04, subdivisions 3, 4, and 5.

Subd. 4. **Right of action on bond.** If the registrant has failed to account to a debtor, or has failed to perform any of the services promised, the registrant is in default. The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Subd. 5. **Registrant list.** The commissioner must maintain a list of registered debt settlement services providers. The list must be made available to the public in written form upon request and on the Department of Commerce Web site.

Subd. 6. **Renewal of registration.** Each year, each registrant under the provisions of this chapter must not, more than 60 nor less than 30 days before its registration is to expire, apply to the commissioner for renewal of its registration on a form prescribed by the commissioner. The application must be signed by the registrant under penalty of perjury, contain current information on all matters required in the original application, and be accompanied by a payment of \$250. The registrant must maintain a continuous surety bond that satisfies the requirements of section 332A.04, subdivision 4. The renewal is effective for one year. The commissioner may, for good cause shown, temporarily waive any requirement of this section.

Sec. 20. **[332B.05] DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF REGISTRATION.**

Subdivision 1. **Denial.** The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration for any of the reasons specified under section 332A.08.

Subd. 2. **Suspension, revocation, or nonrenewal.** The commissioner may suspend, revoke, or refuse to renew any registration issued under this chapter, or may levy a civil penalty under section 45.027, or any combination of actions, if the debt settlement services provider or any controlling or affiliated person has committed any act or omission for which the commissioner could have refused to issue an initial registration.

Subd. 3. **Procedure.** Suspension, revocation, or nonrenewal must be upon notice and under the conditions prescribed in section 332A.09, subdivision 1. Upon issuance of an order suspending, revoking, or refusing to renew a registration, the commissioner:

(1) shall follow the procedure established in section 332A.09, subdivision 2; and

(2) may follow the procedure specified in section 332A.09, subdivision 3, concerning the appointment of a receiver for funds of sanctioned registrants.

Sec. 21. **[332B.06] WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.**

Subdivision 1. **Written agreement required.** (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor and complies with all the applicable requirements of this chapter.

(b) A debt settlement services agreement must:

(1) be in writing, dated, and signed by the debt settlement services provider and the debtor;

(2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt settlement services provider advertises in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to executing a written agreement.** No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

(1) provided the debtor individualized counseling that, at a minimum, addresses managing household finances, managing credit and debt, budgeting, personal savings strategies, and a detailed description of all the various ways to reduce or eliminate the debt, which must, at a minimum, include bankruptcy; and

(2) prepared in writing and provided to the debtor, in a form the debtor may keep, an individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:

(i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;

(ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and

(iii) there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan.

Subd. 3. **Disclosures.** (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

WARNING

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

You SHOULD NOT stop paying your creditors.

Fees, interest, and other charges will continue to mount up during the (insert number) months this plan is in effect.

Even if you sign up for this service:

- YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.
- YOU MAY STILL BE CONTACTED BY CREDITORS.
- YOU MAY STILL BE SUED BY CREDITORS for the money you owe.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected.

(c) The heading, "WARNING," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosure and notice required under this subdivision must be provided in the debtor's primary language if the debt settlement provider advertises in that language.

Subd. 4. **Required information.** (a) Each debt settlement services agreement must contain the following information, which must be disclosed prominently and clearly in bold print on the front page of the agreement, segregated by bold lines from all other information on the page:

(1) the origination fee amount to be paid by the debtor and whether all or part of the origination fee is refundable or nonrefundable; and

(2) the service fee formula and the total amount of service fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 5. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 6. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 7. **Payments held in trust.** If the registrant holds funds for the debtor, the registrant must maintain a separate trust account and deposit in the account all payments received from the moment that the funds are available, except that the registrant may commingle the payment with the registrant's own property or funds, but only to the extent necessary to ensure the maintenance of a minimum balance if the financial institution at which the trust

account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance. All disbursements, whether to the debtor or to the creditors of the debtor, or to the registrant, must be made from such account.

Sec. 22. **[332B.07] RIGHT TO CANCEL.**

Subdivision 1. **Debtor's right to cancel.** (a) A debtor has the right to cancel a debt settlement services agreement without cause at any time upon ten days' written notice to the debt settlement services provider.

(b) In the event of cancellation, the debt settlement services provider must, within ten days of the cancellation, notify the debtor's creditors of the cancellation and provide a refund of all funds paid by or for the debtor to the debt settlement services provider, except for the origination fee specified in section 332B.09, subdivision 1.

Subd. 2. **Notice of debtor's right to cancel.** A debt settlement services agreement must contain, on its face, in an easily readable type immediately adjacent to the space for signature by the debtor, the following notice: "Right to Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Subd. 3. **Automatic termination.** Upon the payment of all listed or settled debts and fees, the debt settlement services agreement must automatically terminate, and all unexpended funds paid by or for the debtor to the debt settlement services provider must be immediately returned to the debtor.

Subd. 4. **Debt settlement services provider's right to cancel.** (a) A debt settlement services provider may cancel a debt settlement services agreement with good cause upon 30 days' written notice to the debtor.

(b) Within ten days after the cancellation, the debt settlement services provider must:

(1) notify the debtor's creditors of the cancellation; and

(2) return to the debtor all funds paid by or for the debtor to the debt settlement provider, except for the origination fee specified in section 332B.09, subdivision 1.

Sec. 23. **[332B.08] BOOKS, RECORDS, AND INFORMATION.**

Subdivision 1. **Records retention; annual report.** Every registrant must keep, and use in the registrant's business, such books, accounts, and records, including electronic records, as will enable the commissioner to determine whether the registrant is complying with this chapter and the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Annual report.** On or before March 15 of each calendar year, each registrant must file a report with the commissioner containing such information as the commissioner may require about the preceding calendar year. The report must be in a form the commissioner prescribes.

Subd. 3. **Statements to debtors.** (a) Each registrant must:

(1) maintain and make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors of the debtor. A statement showing amounts received from the debtor, disbursements to each creditor, amounts that any creditor has agreed to as payment in full for any debt owed the creditor by the debtor, charges deducted by the registrant, and other information as the commissioner may prescribe, must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract;

(2) include in the statement furnished to debtors a list of all activities conducted pursuant to the contract, including the number and description of communications with each creditor during the reporting period; and

(3) prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practicable.

(b) Each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential, except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees.

Sec. 24. **[332B.09] FEES, PAYMENTS, AND CONSENT OF CREDITORS.**

Subdivision 1. **Origination fee.** A debt settlement services provider may charge a nonrefundable origination fee of not more than \$50.

Subd. 2. **Service fee.** In addition to the origination fee under subdivision 1, a debt settlement services provider may charge a service fee equal to five percent of the savings actually negotiated by the debt settlement services provider. No other fees may be charged. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted.

Subd. 3. **Collection of fees.** No debt settlement services provider may claim, demand, charge, collect, or receive any compensation until after the debt settlement service provider has fully performed each and every service the provider has contracted to perform or represented would be performed or as otherwise provided in this section.

Subd. 4. **Consent of creditors.** Before providing any services, a debt settlement services provider must obtain the written consent of all creditors that agree to participate in the debt settlement services plan set forth in the debt management services agreement. The debt settlement services provider must notify the debtor within ten days after any failure to obtain the required consent of any creditor and of the debtor's right to cancel the agreement without penalty. If not all creditors listed in the debt settlement services agreement have consented to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the participation of all listed creditors.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to cancel the debt settlement services agreement. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement.** A debt settlement services provider must notify the debtor within 24 hours of settlement of a debt with a creditor.

Sec. 25. **[332B.10] PROHIBITIONS.**

No debt settlement services provider shall:

(1) engage in any activity, act, or omission prohibited under section 332A.14;

(2) promise, guarantee, or directly or indirectly imply, infer, or in any manner represent that any debt will be settled prior to the presentation to the debtor of an offer by the creditors participating in the debt settlement plan to settle;

(3) misrepresent the timing of negotiations with creditors;

(4) imply, infer, or in any manner represent that:

(i) fees, interest, and other charges will not continue to accrue prior to the time debts are settled;

(ii) wages or bank accounts are not subject to garnishment;

(iii) creditors will not continue to contact the debtor;

(iv) the debtor is not subject to legal action; and

(v) the debtor will not be subject to tax consequences for the portion of any debts forgiven;

(5) execute a power of attorney or any other agreement, oral or written, express or implied, that extinguishes or limits the debtor's right at any time to contract or communicate with any creditor or the creditor's right at any time to communicate with the debtor;

(6) exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(7) state, imply, infer, or in any other manner, indicate that entering into a debt settlement services agreement or settling debts will either have no effect on, or improve, the debtor's credit, credit rating, and credit score;

(8) challenge a debt without the written consent of the debtor;

(9) make any false or misleading claim regarding a creditor's right to collect a debt;

(10) represent that the debt settlement services provider can negotiate better settlement terms with a creditor than the debtor alone can negotiate;

(11) provide or offer to provide legal advice or legal services unless the person providing or offering to provide legal advice is licensed to practice law in the state;

(12) misrepresent that it is authorized or competent to furnish legal advice or perform legal services; and

(13) settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification from the creditor that the payment is in full settlement of the debt.

Sec. 26. **[332B.11] ADVERTISEMENT OF DEBT SETTLEMENT SERVICES PLAN.**

No debt settlement services provider may engage in any activity proscribed by section 332A.16, or represent, claim, imply, or infer that secured debts may be settled.

Sec. 27. **[332B.12] DEBT SETTLEMENT SERVICES AGREEMENT RESCISSION.**

Any debtor has the right to rescind any debt settlement services agreement with a debt settlement services provider that commits a material violation of this chapter. On rescission, all fees paid to the debt settlement services provider or any other person other than creditors of the debtor must be returned to the debtor entering into the debt settlement services agreement within ten days of rescission of the debt settlement services agreement.

Sec. 28. **[332B.13] ENFORCEMENT; REMEDIES.**

Subdivision 1. **Violation as deceptive practice.** A violation of any of the provisions of this chapter is considered an unfair or deceptive trade practice under section 8.31, subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in the public interest.

Subd. 2. **Private right of action.** (a) A debt settlement provider who fails to comply with any of the provisions of this chapter is liable under this section in an individual action for the sum of:

(1) actual, incidental, and consequential damages sustained by the debtor as a result of the failure; and

(2) statutory damages of up to \$5,000.

(b) A debt settlement provider who fails to comply with any of the provisions of this chapter is liable to the named plaintiffs under this section in a class action for the amount that each named plaintiff could recover under paragraph (a), clause (1), and to the other class members for such amount as the court may allow.

(c) In determining the amount of statutory damages, the court shall consider, among other relevant factors:

(1) the frequency, nature, and persistence of noncompliance;

(2) the extent to which the noncompliance was intentional; and

(3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** A debtor may sue a debt settlement services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt settlement services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt settlement services provider violated any provision of this chapter.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

Sec. 29. **[332B.14] INVESTIGATIONS.**

At any reasonable time, the commissioner may examine the books and records of every registrant and of any person engaged in the business of providing debt settlement services. The commissioner, once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents."



Delete the title and insert:

"A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Solberg from the Committee on Ways and Means to which was referred:

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

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 116C.779, subdivision 2, is amended to read:

Subd. 2. **Renewable energy production incentive.** (a) Until January 1, ~~2018~~ 2021, up to \$10,900,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. \$9,400,000 of this annual amount is for incentives for ~~up to 200 megawatts of~~ electricity generated by wind energy conversion systems that are eligible for the incentives under section 216C.41 or Laws 2005, chapter 40.

(b) The balance of this amount, up to \$1,500,000 annually, may be used for production incentives for on-farm biogas recovery facilities and hydroelectric facilities that are eligible for the incentive under section 216C.41 or for production incentives for other renewables, to be provided in the same manner as under section 216C.41.

(c) Any funds allocated to incentive payments for wind energy conversion systems under paragraph (a) that are not expended for that purpose must be allocated to incentive payments under paragraph (b) if necessary to fully pay eligible claims for incentive payments to qualified on-farm biogas recovery facilities and hydroelectric facilities.

(d) If funds allocated in calendar year 2010 under paragraphs (b) and (c) are insufficient to fully pay eligible claims for incentive payments to qualified on-farm biogas recovery facilities and hydroelectric facilities, up to \$500,000 of additional funds in the renewable development account must be allocated to make up the insufficiency.

(e) Any portion of the \$10,900,000 not expended in any calendar year for the incentive is available for other spending purposes under this section. This subdivision does not create an obligation to contribute funds to the account.

~~(b)~~ (f) The Department of Commerce shall determine eligibility of projects under section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of Commerce shall notify the public utility of the name and address of each eligible project owner and the amount due to each project under section 216C.41. The public utility shall make payments within 15 working days after receipt of notification of payments due.

Sec. 2. Minnesota Statutes 2008, section 116C.779, is amended by adding a subdivision to read:

Subd. 3. **Initiative for Renewable Energy and the Environment.** (a) Beginning July 1, 2011, and each July 1 thereafter, \$5,000,000 must be allocated from the renewable development account to fund a grant to the Board of Regents of the University of Minnesota for the Initiative for Renewable Energy and the Environment for the purposes described in paragraph (b). The Initiative for Renewable Energy and the Environment must set aside at least 15 percent of the funds received annually under the grant for qualified projects conducted at a rural campus or experiment station. Any set-aside funds not awarded to a rural campus or experiment station at the end of the fiscal year revert back to the Initiative for Renewable Energy and the Environment for its exclusive use. This subdivision does not create an obligation to contribute funds to the account.

(b) Activities funded under this grant may include, but are not limited to:

- (1) environmentally sound production of energy from a renewable energy source, including biomass;
- (2) environmentally sound production of hydrogen from biomass and any other renewable energy source for energy storage and energy utilization;
- (3) development of energy conservation and efficient energy utilization technologies;
- (4) energy storage technologies; and

(5) analysis of policy options to facilitate adoption of technologies that use or produce low-carbon renewable energy.

(c) For the purposes of this subdivision:

(1) "biomass" means plant and animal material, agricultural and forest residues, mixed municipal solid waste, and sludge from wastewater treatment; and

(2) "renewable energy source" means hydro, wind, solar, biomass, and geothermal energy, and microorganisms used as an energy source.

Sec. 3. Minnesota Statutes 2008, section 117.189, is amended to read:

**117.189 PUBLIC SERVICE CORPORATION EXCEPTIONS.**

Sections 117.031; 117.036; 117.055, subdivision 2, paragraph (b); 117.186; 117.187; 117.188; and 117.52, subdivisions 1a and 4, do not apply to public service corporations. For purposes of an award of appraisal fees under section 117.085, the fees awarded may not exceed ~~\$500~~ \$1,500 for all types of property.

Sec. 4. Minnesota Statutes 2008, section 216B.16, subdivision 6c, is amended to read:

Subd. 6c. **Incentive plan for energy conservation improvement.** (a) The commission may order public utilities to develop and submit for commission approval incentive plans that describe the method of recovery and accounting for utility conservation expenditures and savings. In developing the incentive plans the commission shall ensure the effective involvement of interested parties.

(b) In approving incentive plans, the commission shall consider:

(1) whether the plan is likely to increase utility investment in cost-effective energy conservation;

(2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;

(3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation; and

(4) whether the plan is in conflict with other provisions of this chapter.

(c) The commission may set rates to encourage the vigorous and effective implementation of utility conservation programs. The commission may:

(1) increase or decrease any otherwise allowed rate of return on net investment based upon the utility's skill, efforts, and success in conserving energy;

(2) share between ratepayers and utilities the net savings resulting from energy conservation programs to the extent justified by the utility's skill, efforts, and success in conserving energy; and

(3) ~~compensate the utility for earnings lost as a result of its conservation programs~~ adopt any mechanism that satisfies the criteria of this subdivision.

(d) In its review under section 216B.241, subdivision 2c, the commission shall provide an incentive that makes effective implementation of cost-effective conservation the most profitable resource choice for public utilities.

Sec. 5. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision to read:

Subd. 7d. **University Avenue light rail transit utility zone cost adjustment.** (a) "University Avenue light rail transit utility zone" or "utility zone" means an area extending no more than one-half mile on either side of the route for the planned light rail transit system connecting the cities of Minneapolis and St. Paul along University Avenue.

(b) A public utility that provides retail electric service within the utility zone, and which is required to replace, relocate, construct, or install facilities because of the mass transit system, may apply to the commission for approval of new facilities in the utility zone. Facilities proposed under this subdivision are not limited to those facilities that actually replace dislocated facilities and may include any transmission facilities, distribution facilities, generation facilities, advanced technology-assisted efficiency devices, and energy storage facilities within the utility zone. Upon approval under paragraph (c), the utility may construct and install the facilities.

(c) The commission may approve the construction and installation of facilities in a mass transit utility zone proposed by a utility under paragraph (b) upon a finding:

(1) that the facilities:

(i) are necessary to provide electric service;

(ii) assist future development of renewable energy, conservation, electric vehicles, or advanced technology-assisted efficiency programs and devices; or

(iii) are exploratory, experimental, or research facilities to advance the use of renewable energy, conservation, electric vehicles, or advanced technology-assisted efficiency programs and devices;

(2) that the utility has engaged in a cooperative process with affected local and state government agencies in the design, planning, or construction of the utility zone project and changes to utility facilities;

(3) that the utility and local units of government have made reasonable efforts to seek federal, state, or private funds that may be available to mass transit and energy projects;

(4) that the utility has made reasonable efforts to minimize the costs and maximize the value to customers of the facilities;

(5) that the utility has a plan to offer a comprehensive array of programs for residential, commercial, and industrial customers located within the mass transit zone;

(6) that the utility direct existing and planned solar energy programs to develop solar energy along the mass transit utility zone; and

(7) that the utility has made reasonable efforts to apply for federal funds to develop technology-assisted efficiency programs and devices within the mass transit utility zone.

(d) Notwithstanding any other provision of this chapter, the commission may approve a tariff mechanism for automatic adjustment of charges for new, replaced, or relocated facilities installed under this subdivision in a manner consistent with this subdivision and the standards and procedures contained in subdivision 7b, except that no approval under section 216B.243 or certification under section 216B.2425 is required unless otherwise required by law. This section does not authorize a city-requested facilities surcharge.

(e) For the purpose of this subdivision, "technology-assisted efficiency programs and devices" includes, but is not limited to, infrastructure that integrates digital information and controls technology to improve the reliability, security, and efficiency of the electric grid.

Sec. 6. **[216B.1613] STANDARDIZED C-BED CONTRACT.**

(a) Within 60 days of the effective date of this section, the commission shall initiate a proceeding to standardize all contract provisions, except those establishing the power purchase price, for two classes of C-BED projects:

(1) projects with a nameplate capacity of five megawatts or less; and

(2) projects with a nameplate capacity of greater than five megawatts.

(b) The proceeding shall provide for participation by the public and stakeholders. The commission shall issue an order containing standardized contract language for each class of C-BED project identified in this section no later than 90 days after the opening of the proceeding. The standardized contract form must be similar in all material respects to the standard contract form previously filed with the commission under section 216B.2423, subdivision 3, including any revisions to that contract on file with the commission as of the effective date of this section. Any applicable C-BED contract signed after the date of the commission's order whose provisions are not identical to the standardized contract contained in the commission's order is invalid.

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

Sec. 7. **[216B.1614] SMALL RENEWABLE PROJECTS PURCHASE.**

Between the effective date of this section and December 31, 2010, electric utilities, as defined in section 216B.1691, subdivision 1, paragraph (b), must purchase or contract to purchase energy from a sufficient number of renewable energy projects with a nameplate capacity of five megawatts or less so as to total at least 200 megawatts in the aggregate. Such projects must be constructed or under construction by December 31, 2010, and must meet the eligibility requirements for a renewable energy incentive under the American Recovery and Reinvestment Act of 2009, the federal Rural Energy for America Program, or other renewable energy incentive program. Before December 31, 2010, an electric utility must undertake such projects in approximate proportion to its share of the total amount of electrical energy sold within this state. This requirement does not prevent an electric utility from developing or acquiring electrical energy from other sources either within or outside the state regardless of whether such sources use renewable energy.

Sec. 8. Minnesota Statutes 2008, section 216B.1645, subdivision 2a, is amended to read:

Subd. 2a. **Cost recovery for utility's renewable facilities.** (a) A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243, or were determined by the commission to be reasonable and prudent under section 216B.243, subdivision 9. For a facility not subject to review by the commission under section 216B.2422 or 216B.243, a utility shall first petition the commission to determine the utility's eligibility to apply for cost recovery for the facility under this section. The commission may approve, or approve as modified, a rate schedule that:

(1) allows a utility to recover directly from customers on a timely basis the costs of qualifying renewable energy projects, including:

(i) return on investment;

(ii) depreciation;

(iii) ongoing operation and maintenance costs;

(iv) taxes; and

(v) costs of transmission and other ancillary expenses directly allocable to transmitting electricity generated from a project meeting the specifications of this paragraph;

(2) provides a current return on construction work in progress, provided that recovery of these costs from Minnesota ratepayers is not sought through any other mechanism;

(3) allows recovery of other expenses incurred that are directly related to a renewable energy project, including expenses for energy storage, provided that the utility demonstrates to the commission's satisfaction that the expenses improve project economics, ensure project implementation, advance research and understanding of how storage devices may improve renewable energy projects, or facilitate coordination with the development of transmission necessary to transport energy produced by the project to market;

(4) allocates recoverable costs appropriately between wholesale and retail customers;

(5) terminates recovery when costs have been fully recovered or have otherwise been reflected in a utility's rates.

(b) A petition filed under this subdivision must include:

(1) a description of the facilities for which costs are to be recovered;

(2) an implementation schedule for the facilities;

(3) the utility's costs for the facilities;

(4) a description of the utility's efforts to ensure that costs of the facilities are reasonable and were prudently incurred; and

(5) a description of the benefits of the project in promoting the development of renewable energy in a manner consistent with this chapter.

Sec. 9. Minnesota Statutes 2008, section 216B.169, subdivision 2, is amended to read:

Subd. 2. **Renewable and high-efficiency energy rate options.** (a) ~~Each~~ A utility ~~shall~~ may offer its customers, ~~and shall advertise the offer at least annually,~~ one or more options that allow a customer to determine that a certain amount of the electricity generated or purchased on behalf of the customer is renewable energy or energy generated by high-efficiency, low-emissions, distributed generation such as fuel cells and microturbines fueled by a renewable fuel.

~~(b) Each public utility shall file an implementation plan within 90 days of July 1, 2001, to implement paragraph (a).~~

~~(e)~~ (b) Rates charged to customers must be calculated using the utility's cost of acquiring the energy for the customer and must:

(1) reflect the difference between the cost of generating or purchasing the additional renewable energy and the cost of generating or purchasing the same amount of nonrenewable energy and the cost that would otherwise be attributed to the customer for the same amount of energy based on the utility's mix of renewable and nonrenewable energy sources; and

(2) be distributed on a per kilowatt-hour basis among all customers who choose to participate in the program.

~~(d) Implementation of these rate options may reflect a reasonable amount of lead time necessary to arrange acquisition of the energy. The utility may acquire the energy demanded by customers, in whole or in part, through procuring or generating the renewable energy directly, or through the purchase of credits from a provider that has received certification of eligible power supply pursuant to subdivision 3. If a utility is not able to arrange an adequate supply of renewable or high-efficiency energy to meet its customers' demand under this section, the utility must file a report with the commission detailing its efforts and reasons for its failure.~~

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

Sec. 10. Minnesota Statutes 2008, section 216B.1691, subdivision 2a, is amended to read:

Subd. 2a. **Eligible energy technology standard.** (a) Except as provided in paragraph (b), each electric utility shall generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota are generated by eligible energy technologies by the end of the year indicated:

- |          |             |
|----------|-------------|
| (1) 2012 | 12 percent  |
| (2) 2016 | 17 percent  |
| (3) 2020 | 20 percent  |
| (4) 2025 | 25 percent. |

(b) An electric utility that owned a nuclear generating facility as of January 1, 2007, must meet the requirements of this paragraph rather than paragraph (a). An electric utility subject to this paragraph must generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota or the retail customer of a distribution utility to which the electric utility provides wholesale electric service so that at least the following percentages of the electric utility's total retail electric sales to retail customers in Minnesota are generated by eligible energy technologies by the end of the year indicated:

- |          |             |
|----------|-------------|
| (1) 2010 | 15 percent  |
| (2) 2012 | 18 percent  |
| (3) 2016 | 25 percent  |
| (4) 2020 | 30 percent. |

Of the 30 percent in 2020, at least 25 percent must be generated by wind or solar energy conversion systems and the remaining five percent by other eligible energy technology.

Sec. 11. Minnesota Statutes 2008, section 216B.23, is amended by adding a subdivision to read:

Subd. 1a. **Authority to issue refund.** (a) On determining that a public utility has charged a rate in violation of this chapter, a commission rule, or a commission order, the commission, after conducting a proceeding, may require the public utility to refund to its customers, in a manner approved by the commission, any revenues the commission finds were collected as a result of the unlawful conduct. Any refund authorized by this section is permitted in addition to any remedies authorized by section 216B.16 or any other law governing rates. Exercising authority under this section does not preclude the commission from pursuing penalties under sections 216B.57 to 216B.61 for the same conduct.

(b) This section must not be construed as allowing:

(1) retroactive ratemaking;

(2) refunds based on claims that prior or current approved rates have been unjust, unreasonable, unreasonably preferential, discriminatory, insufficient, inequitable, or inconsistent in application to a class of customers; or

(3) refunds based on claims that approved rates have not encouraged energy conservation or renewable energy use, or have not furthered the goals of section 216B.164, 216B.241, or 216C.05.

(c) A refund under this subdivision does not apply to revenues collected more than six years before the date of the notice of the commission proceeding required under this subdivision.

Sec. 12. Minnesota Statutes 2008, section 216B.241, subdivision 1c, is amended to read:

Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving goals for energy conservation improvement expenditures and shall evaluate an energy conservation improvement program on how well it meets the goals set.

(b) Each individual utility and association shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average. A utility or association may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, provided that a particular energy savings can apply only to one year's goal.

(c) The commissioner must adopt a filing schedule that is designed to have all utilities and associations operating under an energy-savings plan by calendar year 2010.

(d) In its energy conservation improvement plan filing, a utility or association may request the commissioner to adjust its annual energy-savings percentage goal based on its historical conservation investment experience, customer class makeup, load growth, a conservation potential study, or other factors the commissioner determines warrants an adjustment. The commissioner may not approve a plan that provides for an annual energy-savings goal of less than one percent of gross annual retail energy sales from energy conservation improvements.

A utility or association may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to the minimum energy-savings goal of at least one percent for energy conservation improvements. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.

(e) An energy-savings goal is not satisfied by attaining the revenue expenditure requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the energy-savings goal established in this subdivision.

(f) An association or utility is not required to make energy conservation investments to attain the energy-savings goals of this subdivision that are not cost-effective even if the investment is necessary to attain the energy-savings goals. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the utility, participants, and society. In addition, the commissioner shall consider the rate at which an association or municipal utility is increasing its energy savings and its expenditures on energy conservation.

(g) On an annual basis, the commissioner shall produce and make publicly available a report on the annual energy savings and estimated carbon dioxide reductions achieved by the energy conservation improvement programs for the two most recent years for which data is available. The commissioner shall report on program performance both in the aggregate and for each entity filing an energy conservation improvement plan for approval or review by the commissioner.



(h) By January 15, 2010, the commissioner shall report to the legislature whether the spending requirements under subdivisions 1a and 1b are necessary to achieve the energy-savings goals established in this subdivision.

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

Sec. 13. Minnesota Statutes 2008, section 216B.241, is amended by adding a subdivision to read:

**Subd. 2d. Renewable residential heating.** (a) Up to five percent of a utility's conservation spending obligation under subdivision 1a or any amount expended in order to satisfy a utility's energy-savings goal under subdivision 1c may be used for a project located in this state that provides rebates to homeowners who install the following types of projects to heat the homeowner's primary residence:

(1) a solar thermal project, as defined in section 216B.2411, subdivision 2, paragraph (e);

(2) a geothermal project;

(3) a heating unit that burns exclusively either biodiesel, shelled corn, or wood chips or wood pellets, provided that the heating unit is listed by Underwriters Laboratories.

(b) A rebate awarded under this subdivision must not exceed the lesser of 25 percent of the purchase and installation costs of the project or \$500.

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

Sec. 14. Minnesota Statutes 2008, section 216B.241, is amended by adding a subdivision to read:

**Subd. 5b. Biomethane purchases.** (a) A natural gas utility may include in its conservation plan purchases of biomethane, and may use up to five percent of the total amount to be spent on energy conservation improvements under this section for that purpose. The cost-effectiveness of biomethane purchases may be determined by a different standard than for other energy conservation improvements under this section if the commissioner determines that doing so is in the public interest in order to encourage biomethane purchases. Energy savings from purchasing biomethane may not be counted toward the minimum energy-savings goal of at least one percent for energy conservation improvements required under subdivision 1c, but may, if the conservation plan is approved:

(1) be counted toward energy savings above that minimum percentage; and

(2) be considered when establishing performance incentives under subdivision 2c.

(b) For the purposes of this subdivision, "biomethane" means biogas produced through anaerobic digestion of biomass, gasification of biomass, or other effective conversion processes, that is cleaned and purified into biomethane that meets natural gas utility quality specifications for use in a natural gas utility distribution system.

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

Sec. 15. Minnesota Statutes 2008, section 216B.241, subdivision 9, is amended to read:

**Subd. 9. Building performance standards; Sustainable Building 2030.** (a) The purpose of this subdivision is to establish cost-effective energy-efficiency performance standards for new and substantially reconstructed commercial, industrial, and institutional buildings that can significantly reduce carbon dioxide emissions by lowering energy use in new and substantially reconstructed buildings. For the purposes of this subdivision, the establishment of these standards may be referred to as Sustainable Building 2030.

(b) The commissioner shall contract with the Center for Sustainable Building Research at the University of Minnesota to coordinate development and implementation of energy-efficiency performance standards, strategic planning, research, data analysis, technology transfer, training, and other activities related to the purpose of Sustainable Building 2030. The commissioner and the Center for Sustainable Building Research shall, in consultation with utilities, builders, developers, building operators, and experts in building design and technology, develop a Sustainable Building 2030 implementation plan that must address, at a minimum, the following issues:

- (1) training architects to incorporate the performance standards in building design;
- (2) incorporating the performance standards in utility conservation improvement programs; and
- (3) developing procedures for ongoing monitoring of energy use in buildings that have adopted the performance standards.

The plan must be submitted to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy by July 1, 2009.

(c) Sustainable Building 2030 energy-efficiency performance standards must be firm, quantitative measures of total building energy use and associated carbon dioxide emissions per square foot for different building types and uses, that allow for accurate determinations of a building's conformance with a performance standard. The energy-efficiency performance standards must be updated every three or five years to incorporate all cost-effective measures. The performance standards must reflect the reductions in carbon dioxide emissions per square foot resulting from actions taken by utilities to comply with the renewable energy standards in section 216B.1691. The performance standards should be designed to achieve reductions equivalent to the following reduction schedule, measured against energy consumption by an average building in each applicable building sector in 2003: (1) 60 percent in 2010; (2) 70 percent in 2015; (3) 80 percent in 2020; and (4) 90 percent in 2025. A performance standard must not be established or increased absent a conclusive engineering analysis that it is cost-effective based upon established practices used in evaluating utility conservation improvement programs.

(d) The annual amount of the contract with the Center for Sustainable Building Research is up to \$500,000. The Center for Sustainable Building Research shall expend no more than \$150,000 of this amount each year on administration, coordination, and oversight activities related to Sustainable Building 2030. The balance of contract funds must be spent on substantive programmatic activities allowed under this subdivision that may be conducted by the Center for Sustainable Building Research and for subcontracts with not-for-profit energy organizations, architecture and engineering firms, and other qualified entities to undertake technical projects and activities in support of Sustainable Building 2030. The primary work to be accomplished each year by qualified technical experts under subcontracts is the development and thorough justification of recommendations for specific energy-efficiency performance standards. Additional work may include:

- (1) research, development, and demonstration of new energy-efficiency technologies and techniques suitable for commercial, industrial, and institutional buildings;
- (2) analysis and evaluation of practices in building design, construction, commissioning and operations, and analysis and evaluation of energy use in the commercial, industrial, and institutional sectors;
- (3) analysis and evaluation of the effectiveness and cost-effectiveness of Sustainable Building 2030 performance standards, conservation improvement programs, and building energy codes;
- (4) development and delivery of training programs for architects, engineers, commissioning agents, technicians, contractors, equipment suppliers, developers, and others in the building industries; and

(5) analyze and evaluate the effect of building operations on energy use.

(e) The commissioner shall require utilities to develop and implement conservation improvement programs that are expressly designed to achieve energy efficiency goals consistent with the Sustainable Building 2030 performance standards. These programs must include offerings of design assistance and modeling, financial incentives, and the verification of the proper installation of energy-efficient design components in new and substantially reconstructed buildings. A utility's design assistance program must consider the strategic planting of trees and shrubs around buildings as an energy conservation strategy for the designed project. A utility making an expenditure under its conservation improvement program that results in a building meeting the Sustainable Building 2030 performance standards may claim the energy savings toward its energy-savings goal established in subdivision 1c.

(f) The commissioner shall report to the legislature every three years, beginning January 15, 2010, on the cost-effectiveness and progress of implementing the Sustainable Building 2030 performance standards and shall make recommendations on the need to continue the program as described in this section.

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

Sec. 16. Minnesota Statutes 2008, section 216B.2411, subdivision 1, is amended to read:

Subdivision 1. **Generation projects.** (a) Any municipality or rural electric association providing electric service and subject to section 216B.241 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable energy sources as defined in subdivision 2, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source;

(2) projects in Minnesota to install a distributed generation facility of ten megawatts or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another similarly clean fuel; or

(3) projects in Minnesota to install a qualifying solar energy project as defined in subdivision 2.

(b) A utility that offers a program to customers to promote installing qualifying solar energy projects may request authority from the commissioner to exceed the five percent limit in paragraph (a) to meet customer demand for installation of qualifying solar energy projects. In considering this request, the commissioner shall consider customer interest in qualifying solar energy and the impact on other customers.

~~For public utilities, as defined under section 216B.02, subdivision 4, (c) For a utility subject to this section, projects under this section must be considered energy conservation improvements as defined in section 216B.241. For cooperative electric associations and municipal utilities, projects under this section must be considered load-management activities described in section 216B.241, subdivision 1.~~

Sec. 17. Minnesota Statutes 2008, section 216B.2411, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision and section 216B.241, subdivision 1, have the meanings given them.

(b) "Eligible renewable energy sources" means fuels and technologies to generate electricity through the use of any of the resources listed in section 216B.1691, subdivision 1, paragraph (a), except that the incineration of wastewater sludge is not an eligible renewable energy source, "biomass" has the meaning provided under paragraph (c), and "solar" must be from a qualified solar energy project as defined in paragraph (d).

(c) "Biomass" includes:

- (1) methane or other combustible gases derived from the processing of plant or animal material;
- (2) alternative fuels derived from soybean and other agricultural plant oils or animal fats;
- (3) combustion of barley hulls, corn, soy-based products, or other agricultural products;
- (4) wood residue from the wood products industry in Minnesota or other wood products such as short-rotation woody or fibrous agricultural crops;
- (5) landfill gas;
- (6) the predominantly organic components of wastewater effluent, sludge, or related byproducts from publicly owned treatment works; and
- (7) mixed municipal solid waste, and refuse-derived fuel from mixed municipal solid waste.

(d) "Qualifying solar energy project" means a qualifying solar thermal project or qualifying solar electric project.

(e) "Qualifying solar thermal project" means a flat plate or evacuated tube that meets the requirements of section 216C.25 with a fixed orientation that collects the sun's radiant energy and transfers it to a storage medium for distribution as energy to heat or cool air or water, but does not include equipment used to heat water at a residential property (1) for domestic use if less than one-half of the energy used for that purpose is derived from the sun or (2) for use in a hot tub or swimming pool.

(f) "Qualifying solar electric project" means:

(1) solar electric equipment that: (i) meets the requirements of section 216C.25 with a total; (ii) has a peak generating capacity of 100 kilowatts or less; and (iii) is used for generating to generate electricity primarily for use in a residential property or small business to reduce the effective electric load for that residence or small business, commercial, or publicly owned building or facility; and

(2) if applicable, equipment that is used to store the electricity generated by a qualified solar electric project under clause (1) and that is located proximate to the building or facility using the electricity.

(g) "Residential property building" means the principal residence of a homeowner at the time the solar equipment is placed in service.

~~(h) "Small business" has the meaning given to it in section 645.445.~~

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

Sec. 18. Minnesota Statutes 2008, section 216B.2424, subdivision 5a, is amended to read:

Subd. 5a. **Reduction of biomass mandate.** (a) Notwithstanding subdivision 5, the biomass electric energy mandate must be reduced from 125 megawatts to 110 megawatts.

(b) The Public Utilities Commission shall approve a request pending before the commission as of May 15, 2003, for amendments to and assignment of a power purchase agreement with the owner of a facility that uses short-rotation, woody crops as its primary fuel previously approved to satisfy a portion of the biomass mandate if the

owner of the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts, while maintaining an average price for energy in nominal dollars measured over the term of the power purchase agreement at or below \$104 per megawatt-hour, exclusive of any price adjustments that may take effect subsequent to commission approval of the power purchase agreement, as amended. The commission shall also approve, as necessary, any subsequent assignment or sale of the power purchase agreement or ownership of the project to an entity owned or controlled, directly or indirectly, by two municipal utilities located north of Constitutional Route No. 8, as described in section 161.114, which currently own electric and steam generation facilities using coal as a fuel and which propose to retrofit their existing municipal electrical generating facilities to utilize biomass fuels in order to perform the power purchase agreement.

(c) If the power purchase agreement described in paragraph (b) is assigned to an entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal entities as described in paragraph (b), and the power purchase agreement meets the price requirements of paragraph (b), the commission shall approve any amendments to the power purchase agreement necessary to reflect the changes in project location and ownership and any other amendments made necessary by those changes. The commission shall also specifically find that:

(1) the power purchase agreement complies with and fully satisfies the provisions of this section to the full extent of its 35-megawatt capacity;

(2) all costs incurred by the public utility and all amounts to be paid by the public utility to the project owner under the terms of the power purchase agreement are fully recoverable pursuant to section 216B.1645;

(3) subject to prudence review by the commission, the public utility may recover from its Minnesota retail customers the Minnesota jurisdictional portion of the amounts that may be incurred and paid by the public utility during the full term of the power purchase agreement; and

(4) if the purchase power agreement meets the requirements of this subdivision, it is reasonable and in the public interest.

(d) The commission shall specifically approve recovery by the public utility of any and all Minnesota jurisdictional costs incurred by the public utility to improve, construct, install, or upgrade transmission, distribution, or other electrical facilities owned by the public utility or other persons in order to permit interconnection of the retrofitted biomass-fueled generating facilities or to obtain transmission service for the energy provided by the facilities to the public utility pursuant to section 216B.1645, and shall disapprove any provision in the power purchase agreement that requires the developer or owner of the project to pay the jurisdictional costs or that permit the public utility to terminate the power purchase agreement as a result of the existence of those costs or the public utility's obligation to pay any or all of those costs.

(e) Upon request by the project owner, the public utility shall agree to amend the power purchase agreement described in paragraph (b) and approved by the commission as required by paragraph (c). The amendment must be negotiated and executed within 45 days of the effective date of this section and must apply to prices paid after January 1, 2009. The average price for energy in nominal dollars measured over the term of the power purchase agreement must not exceed \$104 per megawatt hour by more than five percent. The public utility shall request approval of the amendment by the commission within 30 days of execution of the amended power purchase agreement. The amendment is not effective until approval by the commission. The commission shall act on the amendment within 90 days of submission of the request by the public utility. Upon approval of the amended power purchase agreement, the commission shall allow the public utility to recover the costs of the amended power purchase agreement, as provided in section 216B.1645.

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

Sec. 19. Minnesota Statutes 2008, section 216B.2425, subdivision 3, is amended to read:

Subd. 3. **Commission approval; order.** (a) By June 1 of each even-numbered year, the commission shall adopt a state transmission project list and shall certify, certify as modified, or deny certification of the projects proposed under subdivision 2. The commission may only certify a project that is a high-voltage transmission line as defined in section 216B.2421, subdivision 2, that the commission finds is:

- (1) necessary to maintain or enhance the reliability of electric service to Minnesota consumers;
- (2) needed, applying the criteria in section 216B.243, subdivision 3; and
- (3) in the public interest, taking into account electric energy system needs and economic, environmental, and social interests affected by the project.

(b) In its order adopting a statewide transmission project list, the commission shall summarize the present and future inadequacies of the transmission system identified in the utilities' transmission project reports, plans to address those inadequacies, and any barriers that may prevent those inadequacies from being addressed. Within ten days of issuing the order, the commission shall send a copy of the order to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy.

Sec. 20. Minnesota Statutes 2008, section 216B.243, subdivision 8, is amended to read:

Subd. 8. **Exemptions.** This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and paragraph (18), subparagraph (A), and having a combined capacity at a single site of less than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or any case where the commission has determined after being advised by the attorney general that its application has been preempted by federal law;

(2) a high-voltage transmission line proposed primarily to distribute electricity to serve the demand of a single customer at a single location, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(3) the upgrade to a higher voltage of an existing transmission line that serves the demand of a single customer that primarily uses existing rights-of-way, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(4) a high-voltage transmission line of one mile or less required to connect a new or upgraded substation to an existing, new, or upgraded high-voltage transmission line;

(5) conversion of the fuel source of an existing electric generating plant to using natural gas;

(6) the modification of an existing electric generating plant to increase efficiency, as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater; or

(7) a large energy facility that;

(i) generates electricity from wind energy conversion systems;

(ii) will serve retail customers in Minnesota; and

(iii) meets any of the following conditions:

(A) is specifically intended to be used to meet the renewable energy objective under section 216B.1691 ~~or~~;

(B) addresses a resource need identified in a current commission-approved or commission-reviewed resource plan under section 216B.2422, ~~and (iv); or~~

(C) derives at least ten percent of the total nameplate capacity of the proposed project from one or more C-BED projects, as defined under section 216B.1612, subdivision 2, paragraph (f).

Sec. 21. Minnesota Statutes 2008, section 216B.243, subdivision 9, is amended to read:

Subd. 9. **Renewable energy standard facilities.** The requirements of this section do not apply to a wind energy conversion system or a solar electric generation facility that is intended to be used to meet or exceed the obligations of section 216B.1691; provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach to meeting a utility's obligations under that section. When making this determination, the commission may consider:

(1) the size of the facility relative to a utility's total need for renewable resources ~~and~~;

(2) alternative approaches for supplying the renewable energy to be supplied by the proposed facility, ~~and must consider~~;

(3) the facility's ability to promote economic development, as required under section 216B.1691, subdivision 9, ~~maintain~~;

(4) maintenance of electric system reliability ~~and consider~~;

(5) impacts on ratepayers, ~~and~~

(6) other criteria ~~as that the commission may determine~~ determines are relevant.

Sec. 22. Minnesota Statutes 2008, section 216C.052, subdivision 2, is amended to read:

Subd. 2. **Administrative issues.** (a) The commissioner may select the administrator. The administrator must have ~~at least five years of~~ experience working as a power systems engineer planner or transmission planner, or in a position dealing with power system reliability issues, and may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the commissioner. The commissioner shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. The administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

(b) Costs relating to a specific proceeding, analysis, or project are not general administrative costs. For purposes of this section, "energy utility" means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state.

(c) The Department of Commerce shall pay:

(1) the general administrative costs of the administrator, not to exceed \$1,000,000 in a fiscal year, and shall assess energy utilities for those administrative costs. These costs must be consistent with the budget approved by the commissioner under paragraph (a). The department shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

(d) For purposes of administrative efficiency, the department shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision. The amount of the bills rendered by the department under paragraph (c) must be paid by the energy utility into an account in the special revenue fund in the state treasury within 30 days from the date of billing and is appropriated to the department for the purposes provided in this section. The commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover amounts paid by utilities under this section. All amounts assessed under this section are in addition to amounts appropriated to the commission and the department by other law.

Sec. 23. **[216C.055] KEY ROLE OF SOLAR AND BIOMASS RESOURCES IN PRODUCING THERMAL ENERGY.**

The legislature recognizes that the use of solar energy and the combustion of grasses, agricultural wastes, trees, and other vegetation to produce thermal energy for heating commercial, industrial, and residential buildings and for industrial process can play a significant role in helping Minnesota meet its future energy needs and its greenhouse gas emissions reduction goals. The annual legislative proposals required to be submitted by the commissioners of commerce and the Pollution Control Agency under section 216H.07, subdivision 4, must include proposals regarding the use of the renewable energy sources described in this section if the commissioners determine that such policies are appropriate to achieve the state's greenhouse gas emissions reduction goals. No legal claim against any person is allowed under this section. The combustion of municipal solid waste or refuse-derived fuel to produce thermal energy is not addressed under this section. For purposes of this section, removal of woody biomass from publicly owned forests must be consistent with the principles of sustainable forest management.

Sec. 24. Minnesota Statutes 2008, section 216C.41, subdivision 5a, is amended to read:

Subd. 5a. **Renewable development account.** The Department of Commerce shall authorize payment of the renewable energy production incentive to wind energy conversion systems ~~for 200 megawatts of nameplate capacity and~~ that are eligible under this section or Laws 2005, chapter 40, to on-farm biogas recovery facilities, and to hydroelectric facilities. Payment of the incentive shall be made from the renewable energy development account as provided under section 116C.779, subdivision 2.

Sec. 25. Minnesota Statutes 2008, section 216F.01, subdivision 2, is amended to read:

Subd. 2. **Large wind energy conversion system or LWECS.** "Large wind energy conversion system" or "LWECS" means any combination of WECS with a combined nameplate capacity ~~of 5,000~~ greater than 25,000 kilowatts ~~or more~~.

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

Sec. 26. Minnesota Statutes 2008, section 216F.01, subdivision 3, is amended to read:

Subd. 3. **Small wind energy conversion system or SWECS.** "Small wind energy conversion system" or "SWECS" means any combination of WECS with a combined nameplate capacity ~~of less than 5,000~~ or equal to 25,000 kilowatts.

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



Sec. 27. Minnesota Statutes 2008, section 216F.012, is amended to read:

**216F.012 SIZE ELECTION.**

~~(a) A wind energy conversion system of less than 25 megawatts of nameplate capacity as determined under section 216F.011 is a small wind energy conversion system if, by July 1, 2009, the owner so elects in writing and submits a completed application for zoning approval and the written election to the county or counties in which the project is proposed to be located. The owner must notify the Public Utilities Commission of the election at the time the owner submits the election to the county.~~

~~(b) Notwithstanding paragraph (a),~~ A wind energy conversion system with a nameplate capacity exceeding five megawatts that is proposed to be located wholly or partially within a wind access buffer adjacent to state lands that are part of the outdoor recreation system, as enumerated in section 86A.05, is a large wind energy conversion system. The Department of Natural Resources shall negotiate in good faith with a system owner regarding siting and may support the system owner in seeking a variance from the system setback requirements if it determines that a variance is in the public interest.

~~(c)~~ (b) The Public Utilities Commission shall issue an annual report to the chairs and ranking minority members of the house of representatives and senate committees with primary jurisdiction over energy policy and natural resource policy regarding any variances applied for and not granted for systems subject to paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 216F.02, is amended to read:

**216F.02 EXEMPTIONS.**

(a) The requirements of chapter 216E do not apply to the siting of ~~LWECS~~ a WECS with a combined nameplate greater than 5,000 kilowatts that applies to the commission for a site permit, except for sections 216E.01; 216E.03, subdivision 7; 216E.08; 216E.11; 216E.12; 216E.14; 216E.15; 216E.17; and 216E.18, subdivision 3, which do apply.

(b) Any person may construct an SWECS with a combined nameplate capacity less than or equal to 5,000 kilowatts without complying with chapter 216E or this chapter.

(c) Nothing in this chapter ~~shall preclude~~ precludes a local governmental unit from establishing requirements for the siting and construction of SWECS.

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

Sec. 29. Minnesota Statutes 2008, section 216F.08, is amended to read:

**216F.08 PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

(a) A county board may, by resolution and upon written notice to the Public Utilities Commission, assume responsibility for processing applications for permits required under this chapter for ~~LWECS with a combined nameplate capacity of less than 25,000 kilowatts~~ SWECS. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to an appropriate county officer or employee. ~~Processing by~~ A county shall be done process applications in accordance with procedures and processes established under chapter 394.

(b) A county board that exercises its option under paragraph (a) may issue, deny, modify, impose conditions upon, or revoke permits pursuant to this section. The action of ~~the~~ a county board about with respect to a permit application is final, subject to appeal as provided in section 394.27.

(c) ~~The commission shall, by order, establish general permit standards, including appropriate property line setbacks, governing site permits for LWECS under this section and SWECS. The order must consider existing and historic commission standards for wind permits issued by the commission. The general permit standards shall may apply to permits issued by counties and must apply to permits issued by the commission for LWECS with a combined nameplate capacity of less than 25,000 kilowatts and SWECS. The general permit standards must establish a setback for a SWECS from a road or property line equal to 1.1 times the maximum tip height of a rotor blade measured from ground level when the blade is in a vertical position. Counties are encouraged to consider an identical setback standard in permits they issue. The commission or a county may grant a variance from a general permit standard if the variance is found to be in the public interest. Permit standards established by a county under this section supersede general permit standards established by the commission.~~

(d) Upon request by a county, the commission and the commissioner of commerce shall provide technical assistance to a county with respect to ~~the processing of LWECS SWECS~~ site permit applications.

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

Sec. 30. **MOUNTAIN IRON ECONOMIC DEVELOPMENT AUTHORITY; WIND ENERGY PROJECT.**

(a) The Mountain Iron Economic Development Authority may form or become a member of a limited liability company organized under Minnesota Statutes, chapter 322B, for the purpose of developing a community-based energy development project pursuant to Minnesota Statutes, section 216B.1612. A limited liability company formed or joined under this section is subject to the open meeting requirements established in Minnesota Statutes, chapter 13D. A project authorized by this section may not sell, transmit, or distribute the electrical energy at retail or provide for end use of the electricity to an off-site facility of the economic development corporation or the limited liability company. Nothing in this section modifies the exclusive service territories or exclusive right to serve as provided in Minnesota Statutes, sections 216B.37 to 216B.43.

(b) The authority may acquire a leasehold interest in property outside its corporate boundaries for the purpose of developing a community-based energy development project as provided in Minnesota Statutes, section 216B.1612.

**EFFECTIVE DATE.** This section is effective the day after the city of Mountain Iron and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 31. **SOLAR CITIES REPORT.**

The cities of Minneapolis and St. Paul, designated as solar cities under the federal Department of Energy's Solar America Initiative, shall, by October 1, 2009, and October 1, 2010, submit a report to the cochairs of the Legislative Energy Committee containing strategies to accelerate the rate of solar thermal and solar electric energy installations in all building types throughout the state. The report must, at a minimum, address the following issues:

(1) identify legal, administrative, financial, and operational barriers to increasing the installation of solar energy, and measures to overcome them;

(2) identify financial and regulatory mechanisms that stimulate the development of solar energy;

(3) identify ways to link solar energy development with energy conservation and energy efficiency strategies and programs;

(4) how efforts and initiatives undertaken by St. Paul and Minneapolis can be integrated with activities undertaken in other parts of the state; and

(5) how projected trends in solar technologies and the costs of solar generation can be integrated into the state's strategy to advance adoption of solar energy.

In preparing these reports, the cities may confer with any person whose experience and expertise will assist in preparing the reports, including utilities, businesses providing solar energy installation services, nonprofit organizations promoting solar energy, and others.

Sec. 32. **NATURAL GAS UTILITIES; INTERIM ENERGY SAVINGS PLAN.**

(a) The commissioner of commerce may approve an energy conservation improvement plan under Minnesota Statutes, section 216B.241, subdivision 1c, paragraph (d), that:

(1) is submitted to the commissioner in calendar year 2009 by a utility that provides natural gas service at retail;

(2) governs the conservation improvements to be undertaken by the utility over the next three-year time period; and

(3) is accompanied by a study that specifies how the utility may:

(i) average savings of at least 0.75 percent over the three years following submission of the plan;

(ii) meet and exceed the minimum energy savings goal of one percent of gross annual retail sales within five years of submission of the plan; and

(iii) achieve average annual savings of at least one percent over the nine years following submission of the plan.

(b) The plan must include projections of the total amount spent by the utility to achieve energy savings each year and the cost per unit of energy saved.

(c) Nothing in this section precludes the commissioner from requiring additional energy conservation improvement activities and programs beyond those proposed by a utility in its proposed plan so long as those additional activities and programs meet the requirements of Minnesota Statutes, section 216B.241. The commissioner shall require all reasonable actions by a utility that will increase the likelihood of the utility's meeting and exceeding the minimum one percent energy savings goal and the 1.5 percent goal as soon as reasonably feasible.

Sec. 33. **CLEAN ENERGY RESOURCE TEAMS; APPROPRIATION.**

The utility subject to Minnesota Statutes, section 116C.779, shall transfer \$563,000 in fiscal year 2010 and \$563,000 in fiscal year 2011 from the renewable development account established in Minnesota Statutes, section 116C.779, to the Department of Commerce on a schedule to be determined by the commissioner of commerce. The funds must be deposited in the special revenue fund and are appropriated to the commissioner for the purposes of this section.

\$563,000 in fiscal year 2010 and \$563,000 in fiscal year 2011 are for continued funding of community energy technical assistance and outreach on renewable energy and energy efficiency, as described in Minnesota Statutes, section 216C.385. Of this amount, \$113,000 each year is for technical assistance in the metropolitan area.

Sec. 34. **REPEALER.**

Laws 2007, chapter 3, section 3, is repealed."

Delete the title and insert:

"A bill for an act relating to energy; modifying or adding provisions relating to renewable energy production incentives and initiatives, C-BED contracts, renewable energy purchases, certain appraisal fees, energy conservation, utility costs and refunds, renewable and high-efficiency energy rate options, solar energy, utility energy savings, renewable residential heating, biomethane purchases, Sustainable Building 2030, power purchase agreements, power transmission, certificate of need exemptions, energy facilities, renewable development account, the reliability administrator, wind energy conversion systems, and Mountain Iron Economic Development Authority; requiring legislative reports and proposals; appropriating money; amending Minnesota Statutes 2008, sections 116C.779, subdivision 2, by adding a subdivision; 117.189; 216B.16, subdivision 6c, by adding a subdivision; 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 9, by adding subdivisions; 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.2425, subdivision 3; 216B.243, subdivisions 8, 9; 216C.052, subdivision 2; 216C.41, subdivision 5a; 216F.01, subdivisions 2, 3; 216F.012; 216F.02; 216F.08; proposing coding for new law in Minnesota Statutes, chapters 216B; 216C; repealing Laws 2007, chapter 3, section 3."

With the recommendation that when so amended the bill pass.

The report was adopted.

Solberg from the Committee on Ways and Means to which was referred:

S. F. No. 643, A bill for an act relating to unemployment compensation; providing eligibility for benefits under certain training programs.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 925 and 1242 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 462, 489, 1486, 550 and 643 were read for the second time.

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

The following House Files were introduced:

Rosenthal, Obermueller, Sterner, Bunn, Dittrich, Ruud, Scalze, Gardner, Davnie, Kelly, Zellers and Mahoney introduced:

H. F. No. 2318, A bill for an act relating to taxation; allowing the research credit against the individual income tax; increasing the credit rate; amending Minnesota Statutes 2008, section 290.068, subdivisions 1, 3, 4.

The bill was read for the first time and referred to the Committee on Taxes.

Hornstein introduced:

H. F. No. 2319, A bill for an act relating to taxation; individual income and corporate franchise tax; clarifying the treatment of certain built-in losses of certain banks with an ownership change; amending Minnesota Statutes 2008, section 290.01, subdivisions 19c, 19d; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Taxes.

Westrom and Anderson, P., introduced:

H. F. No. 2320, A bill for an act relating to arts and cultural heritage; appropriating money for the Kensington Area Heritage Society.

The bill was read for the first time and referred to the Committee on Finance.

Knuth introduced:

H. F. No. 2321, A bill for an act relating to taxation; property; exempting certain publicly owned railroad property; amending Minnesota Statutes 2008, section 272.02, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Rukavina introduced:

H. F. No. 2322, A bill for an act relating to economic development; creating the Minnesota Venture Network Board to provide tax credits to stimulate venture capital investment in Minnesota; creating the Minnesota capital fund to facilitate investments in venture funds; creating the Minnesota venture network trust as a public trust to utilize net profits of the Minnesota capital fund; providing a contingent tax credit for investment commitment in the Minnesota capital fund; amending Minnesota Statutes 2008, section 290.06, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 297I; proposing coding for new law as Minnesota Statutes, chapter 116W.

The bill was read for the first time and referred to the Committee on Finance.

Lenczewski introduced:

H. F. No. 2323, A bill for an act relating to taxation; income and corporate franchise; providing a federal update; amending Minnesota Statutes 2008, sections 289A.02, subdivision 7, as amended; 290.01, subdivisions 19, as amended, 19a, as amended, 19b, 19c, as amended, 19d, as amended, 31, as amended; 290.06, subdivision 2c; 290.067, subdivision 2a, as amended; 290.091, subdivision 2; 290.095, subdivision 11; 290.9727, by adding a subdivision; 290A.03, subdivisions 3, as amended, 15, as amended; 291.005, subdivision 1, as amended.

The bill was read for the first time and referred to the Committee on Taxes.

REPORT FROM THE COMMITTEE ON RULES AND  
LEGISLATIVE ADMINISTRATION

Sertich from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day for Thursday, April 16, 2009:

S. F. No. 33; H. F. No. 417; S. F. Nos. 166 and 261; and H. F. Nos. 523, 1394 and 111.

**CALENDAR FOR THE DAY**

S. F. No. 166 was reported to the House.

Knuth moved to amend S. F. No. 166, the second unofficial engrossment, as follows:

Page 3, line 25, delete "verbal" and insert "spoken"

Page 6, line 32, delete "from the insured" and insert "or beneficial interest in the policy"

Page 6, line 33, delete ", or at the time of, the application for, or" and after "of" delete the comma

Page 7, line 22, after the period, insert "Nothing in this paragraph shall prevent such a life expectancy evaluation from being shared with or used by the insured or the insured's accountant, attorney, or insurance producer for estate planning purposes so long as the life expectancy evaluation is not used by such persons to determine the actual or potential value of the policy in the secondary market."

Page 7, line 31, after "is" insert "connected to a legitimate settlement contract and"

Page 9, line 20, after "60A.0783" insert "or section 60A.0785"

The motion prevailed and the amendment was adopted.

Buesgens moved to amend S. F. No. 166, the second unofficial engrossment, as amended, as follows:

Page 4, line 4, delete everything after "law"

Page 4, line 5, delete everything before the period

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 50 yeas and 81 nays as follows:

Those who voted in the affirmative were:

Abeler	Beard	Davids	Doepke	Emmer	Hackbarth
Anderson, B.	Brod	Dean	Doty	Garofalo	Hamilton
Anderson, P.	Buesgens	Demmer	Downey	Gottwalt	Holberg
Anderson, S.	Cornish	Dettmer	Drazkowski	Gunther	Hoppe

Howes	Kohls	McFarlane	Olin	Severson	Zellers
Jackson	Lanning	McNamara	Peppin	Shimanski	
Kath	Loon	Murdock	Sanders	Smith	
Kelly	Mack	Newton	Scott	Torkelson	
Kiffmeyer	Magnus	Nornes	Seifert	Urdahl	

Those who voted in the negative were:

Anzelc	Eken	Hosch	Loeffler	Paymar	Slocum
Atkins	Falk	Huntley	Mahoney	Pelowski	Solberg
Benson	Faust	Johnson	Mariani	Persell	Swails
Bigham	Fritz	Juhnke	Marquart	Peterson	Thao
Bly	Gardner	Kahn	Masin	Poppe	Thissen
Brown	Greiling	Kalin	Morgan	Reinert	Tillberry
Brynaert	Hansen	Knuth	Morrow	Rosenthal	Wagenius
Bunn	Hausman	Koenen	Mullery	Rukavina	Ward
Carlson	Haws	Laine	Murphy, E.	Ruud	Welti
Champion	Hayden	Lenczewski	Murphy, M.	Sailer	Winkler
Clark	Hilstrom	Lesch	Nelson	Scalze	Spk. Kelliher
Davnie	Hilty	Liebling	Norton	Sertich	
Dill	Hornstein	Lieder	Obermueller	Simon	
Dittrich	Hortman	Lillie	Otremba	Slawik	

The motion did not prevail and the amendment was not adopted.

S. F. No. 166, the second unofficial engrossment, as amended, was read for the third time.

#### CALL OF THE HOUSE

On the motion of Seifert and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Davnie	Hamilton	Kelly	McFarlane	Poppe
Anderson, B.	Dean	Hansen	Kiffmeyer	McNamara	Reinert
Anderson, P.	Demmer	Hausman	Knuth	Morgan	Rosenthal
Anderson, S.	Dettmer	Haws	Koenen	Morrow	Rukavina
Anzelc	Dittrich	Hayden	Kohls	Mullery	Ruud
Atkins	Doepke	Hilstrom	Laine	Murdock	Sailer
Beard	Doty	Hilty	Lanning	Murphy, E.	Sanders
Benson	Downey	Holberg	Lenczewski	Murphy, M.	Scalze
Bigham	Drazkowski	Hoppe	Lesch	Nelson	Scott
Bly	Eken	Hornstein	Liebling	Newton	Seifert
Brod	Emmer	Hortman	Lieder	Nornes	Sertich
Brown	Falk	Hosch	Lillie	Norton	Severson
Brynaert	Faust	Howes	Loeffler	Obermueller	Shimanski
Buesgens	Fritz	Huntley	Loon	Olin	Simon
Bunn	Gardner	Jackson	Mack	Otremba	Slawik
Carlson	Garofalo	Johnson	Magnus	Paymar	Slocum
Champion	Gottwalt	Juhnke	Mahoney	Pelowski	Smith
Clark	Greiling	Kahn	Mariani	Peppin	Solberg
Cornish	Gunther	Kalin	Marquart	Persell	Stern
Davids	Hackbarth	Kath	Masin	Peterson	Swails

Thao	Tillberry	Urdahl	Ward	Winkler	Spk. Kelliher
Thissen	Torkelson	Wagenius	Welti	Zellers	

Sertich moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

S. F. No. 166, A bill for an act relating to insurance; regulating life insurance; prohibiting stranger-originated life insurance; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 61A.073; 61A.074.

The bill, as amended, was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called.

Pursuant to rule 2.05, Kohls was excused from voting on the final passage of S. F. No. 166, as amended.

There were 96 yeas and 35 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hortman	Loeffler	Olin	Simon
Anzelc	Dittrich	Hosch	Loon	Otremba	Slawik
Atkins	Doepke	Huntley	Mahoney	Paymar	Slocum
Benson	Eken	Johnson	Mariani	Pelowski	Smith
Bigham	Falk	Juhnke	Marquart	Persell	Solberg
Bly	Fritz	Kahn	Masin	Peterson	Sterner
Brod	Gardner	Kalin	McNamara	Poppe	Swails
Brown	Garofalo	Kath	Morgan	Reinert	Thao
Brynaert	Greiling	Knuth	Morrow	Rosenthal	Thissen
Bunn	Hansen	Koenen	Mullery	Rukavina	Tillberry
Carlson	Hausman	Laine	Murphy, E.	Ruud	Urdahl
Champion	Haws	Lenczewski	Murphy, M.	Sailer	Wagenius
Clark	Hayden	Lesch	Nelson	Sanders	Ward
Cornish	Hilstrom	Liebling	Newton	Scalze	Welti
Davnie	Hilty	Lieder	Norton	Seifert	Winkler
Demmer	Hornstein	Lillie	Obermueller	Sertich	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dean	Faust	Hoppe	Mack	Scott
Anderson, P.	Dettmer	Gottwalt	Howes	Magnus	Severson
Anderson, S.	Doty	Gunther	Jackson	McFarlane	Shimanski
Beard	Downey	Hackbarth	Kelly	Murdock	Torkelson
Buesgens	Drazkowski	Hamilton	Kiffmeyer	Nornes	Zellers
Davids	Emmer	Holberg	Lanning	Peppin	

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

#### CALL OF THE HOUSE LIFTED

Sertich moved that the call of the House be lifted. The motion prevailed and it was so ordered.



S. F. No. 33, A bill for an act relating to pupil transportation; modifying qualifications for type III school bus drivers; amending Minnesota Statutes 2008, section 171.02, subdivision 2b.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hilstrom	Lesch	Norton	Slawik
Anderson, B.	Dill	Hilty	Liebling	Obermueller	Slocum
Anderson, P.	Dittrich	Holberg	Lieder	Olin	Smith
Anderson, S.	Doepke	Hoppe	Lillie	Otremba	Solberg
Anzelc	Doty	Hornstein	Loeffler	Paymar	Sterner
Atkins	Downey	Hortman	Loon	Pelowski	Swails
Beard	Drazkowski	Hosch	Mack	Peppin	Thao
Benson	Eken	Howes	Magnus	Persell	Thissen
Bigham	Emmer	Huntley	Mahoney	Peterson	Tillberry
Bly	Falk	Jackson	Mariani	Poppe	Torkelson
Brod	Faust	Johnson	Marquart	Reinert	Urdahl
Brown	Fritz	Juhnke	Masin	Rosenthal	Wagenius
Brynaert	Gardner	Kahn	McFarlane	Rukavina	Ward
Buesgens	Garofalo	Kalin	McNamara	Ruud	Welti
Bunn	Gottwalt	Kath	Morgan	Sailer	Winkler
Carlson	Greiling	Kelly	Morrow	Sanders	Zellers
Champion	Gunther	Kiffmeyer	Mullery	Scalze	Spk. Kelliher
Clark	Hackbarth	Knuth	Murdock	Scott	
Cornish	Hamilton	Koenen	Murphy, E.	Seifert	
Davids	Hansen	Kohls	Murphy, M.	Sertich	
Davnie	Hausman	Laine	Nelson	Severson	
Dean	Haws	Lanning	Newton	Shimanski	
Demmer	Hayden	Lenczewski	Nornes	Simon	

The bill was passed and its title agreed to.

H. F. No. 417 was reported to the House.

Abeler, Atkins, Gunther and Davids moved to amend H. F. No. 417, the first engrossment, as follows:

Page 2, after line 32, insert:

"Sec. 2. Minnesota Statutes 2008, section 60A.23, subdivision 8, is amended to read:

**Subd. 8. Self-insurance or insurance plan administrators who are vendors of risk management services.**  
 (1) **Scope.** This subdivision applies to any vendor of risk management services and to any entity which administers, for compensation, a self-insurance or insurance plan. This subdivision does not apply (a) to an insurance company authorized to transact insurance in this state, as defined by section 60A.06, subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for its employees' benefits; (e) to an entity which administers a program of health benefits established pursuant to a collective bargaining agreement between an employer, or group or association of employers, and a union or unions;

or (f) to an entity which administers a self-insurance or insurance plan if a licensed Minnesota insurer is providing insurance to the plan and if the licensed insurer has appointed the entity administering the plan as one of its licensed agents within this state.

(2) **Definitions.** For purposes of this subdivision the following terms have the meanings given them.

(a) "Administering a self-insurance or insurance plan" means (i) processing, reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii) otherwise providing necessary administrative services in connection with the operation of a self-insurance or insurance plan.

(b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

(c) "Entity" means any association, corporation, partnership, sole proprietorship, trust, or other business entity engaged in or transacting business in this state.

(d) "Self-insurance or insurance plan" means a plan providing life, medical or hospital care, accident, sickness or disability insurance for the benefit of employees or members of an association, or a plan providing liability coverage for any other risk or hazard, which is or is not directly insured or provided by a licensed insurer, service plan corporation, or health maintenance organization.

(e) "Vendor of risk management services" means an entity providing for compensation actuarial, financial management, accounting, legal or other services for the purpose of designing and establishing a self-insurance or insurance plan for an employer.

(3) **License.** No vendor of risk management services or entity administering a self-insurance or insurance plan may transact this business in this state unless it is licensed to do so by the commissioner. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license may be granted only when the commissioner is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee is \$1,500 for the initial application and \$1,500 for each three-year renewal. All licenses are for a period of three years.

(4) **Regulatory restrictions; powers of the commissioner.** To assure that self-insurance or insurance plans are financially solvent, are administered in a fair and equitable fashion, and are processing claims and paying benefits in a prompt, fair, and honest manner, vendors of risk management services and entities administering insurance or self-insurance plans are subject to the supervision and examination by the commissioner. Vendors of risk management services, entities administering insurance or self-insurance plans, and insurance or self-insurance plans established or operated by them are subject to the trade practice requirements of sections 72A.19 to 72A.30. In lieu of an unlimited guarantee from a parent corporation for a vendor of risk management services or an entity administering insurance or self-insurance plans, the commissioner may accept a surety bond in a form satisfactory to the commissioner in an amount equal to 120 percent of the total amount of claims handled by the applicant in the prior year. If at any time the total amount of claims handled during a year exceeds the amount upon which the bond was calculated, the administrator shall immediately notify the commissioner. The commissioner may require that the bond be increased accordingly.

No contract entered into after July 1, 2001, between a licensed vendor of risk management services and a group authorized to self-insure for workers' compensation liabilities under section 79A.03, subdivision 6, may take effect until it has been filed with the commissioner, and either (1) the commissioner has approved it or (2) 60 days have elapsed and the commissioner has not disapproved it as misleading or violative of public policy.

(5) **Rulemaking authority.** To carry out the purposes of this subdivision, the commissioner may adopt rules pursuant to sections 14.001 to 14.69. These rules may:

- (a) establish reporting requirements for administrators of insurance or self-insurance plans;
- (b) establish standards and guidelines to assure the adequacy of financing, reinsuring, and administration of insurance or self-insurance plans;
- (c) establish bonding requirements or other provisions assuring the financial integrity of entities administering insurance or self-insurance plans; or
- (d) establish other reasonable requirements to further the purposes of this subdivision.

(6) **Claims processing practices.** No entity administering a self-insurance or insurance plan shall:

(a) require a patient to pay for care provided by an in-network provider an amount that exceeds the fee negotiated between the entity and that provider for the covered service provided;

(b) attempt to recoup from the provider a payment owed to the provider by the patient for deductibles, co-pays, coinsurance, or other enrollee cost-sharing required under the plan, unless the administrator has confirmed with the provider that the patient has paid the cost-sharing amounts in full; or

(c) limit the time period for a provider to submit a claim, which may not be less than 90 days through contract except when otherwise required by state or federal law or regulation, unless the health care provider knew or was informed of the correct name and address of the responsible health plan company or third-party administrator. For purposes of this paragraph, presentation of the health coverage identification card by the patient is deemed sufficient notification of the correct information.

**EFFECTIVE DATE.** Paragraph 6, clause (c) is effective August 1, 2009, and applies to patient care provided on or after that date. Paragraph 6, clauses (a) and (b), are effective the day following final enactment."

Page 2, after line 32, insert:

"Sec. 3. **[62Q.7375] HEALTH CARE CLEARINGHOUSES.**

Subdivision 1. **Definition.** For the purposes of this section, "health care clearinghouse" or "clearinghouse" means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that does either of the following functions:

(1) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

(2) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

Subd. 2. **Claims submission deadlines and careful handling.** (a) A health plan or third-party administrator must not have or enforce a deadline for submission of claims that is shorter than the period provided in section 60A.23, subdivision 8, paragraph (6), clause (c).

(b) A claim submitted to a health plan or third-party administrator through a health care clearinghouse or clearinghouse within the time permitted under paragraph (a) must be treated as timely by the health plan or third-party administrator. This paragraph does not apply if the provider submitted the claim to a clearinghouse that does not have the ability or authority to transmit the claim to the relevant health plan company.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to claims transmitted to a clearinghouse on or after that date.

Sec. 4. Minnesota Statutes 2008, section 319B.02, is amended by adding a subdivision to read:

Subd. 21a. **Surviving spouse.** "Surviving spouse" means a surviving spouse of a deceased professional as an individual, as the personal representative of the estate of the decedent, as the trustee of an inter vivos or testamentary trust created by the decedent, or as the sole heir or beneficiary of an estate or trust of which the personal representative or trustee is a bank or other institution that has trust powers.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 5. Minnesota Statutes 2008, section 319B.07, subdivision 1, is amended to read:

Subdivision 1. **Ownership of interests restricted.** Ownership interests in a professional firm may not be owned or held, either directly or indirectly, except by any of the following:

(1) professionals who, with respect to at least one category of the pertinent professional services, are licensed and not disqualified;

(2) general partnerships, other than limited liability partnerships, authorized to furnish at least one category of the professional firm's pertinent professional services;

(3) other professional firms authorized to furnish at least one category of the professional firm's pertinent professional services;

(4) a voting trust established with respect to some or all of the ownership interests in the professional firm, if (i) the professional firm's generally applicable governing law permits the establishment of voting trusts, and (ii) all the voting trustees and all the holders of beneficial interests in the trust are professionals licensed to furnish at least one category of the pertinent professional services; ~~and~~

(5) an employee stock ownership plan as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended, if (i) all the voting trustees of the plan are professionals licensed to furnish at least one category of the pertinent professional services, and (ii) the ownership interests are not directly issued to anyone other than professionals licensed to furnish at least one category of the pertinent professional services; and

(6) sole ownership by a surviving spouse of a deceased professional who was the sole owner of the professional firm at the time of the professional's death, but only during the period of time ending one year after the death of the professional.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 6. Minnesota Statutes 2008, section 319B.08, is amended to read:

**319B.08 EFFECT OF DEATH OR DISQUALIFICATION OF OWNER.**

Subdivision 1. **Acquisition of interests or automatic loss of professional firm status.** (a) If an owner dies or becomes disqualified to practice all the pertinent professional services, then either:

(1) within 90 days after the death or the beginning of the disqualification, all of that owner's ownership interest must be acquired by the professional firm, by persons permitted by section 319B.07 to own the ownership interest, or by some combination; or

(2) at the end of the 90-day period, the firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded, the firm loses its status as a professional firm, and the authority created by that election and status terminates.

An acquisition satisfies clause (1) if all right and title to the deceased or disqualified owner's interest are acquired before the end of the 90-day period, even if some or all of the consideration is paid after the end of the 90-day period. However, payment cannot be secured in any way that violates sections 319B.01 to 319B.12.

(b) If automatic rescission does occur under paragraph (a), the firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign qualification. Even without that updating, however, the rescission, loss of status, and termination of authority provided by paragraph (a) occur automatically at the end of the 90-day period.

Subd. 2. **Terms of acquisition.** (a) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect a mechanism, valid according to the professional firm's generally applicable governing law, to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1); and

(3) the professional firm does not agree with the disqualified owner or the representative of the deceased owner to set aside the mechanism,

then that mechanism applies.

(b) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect no mechanism as described in paragraph (a), or has agreed as mentioned in paragraph (a), clause (3), to set aside that mechanism; and

(3) consistent with its generally applicable governing law, the professional firm agrees with the disqualified owner or the representative of the deceased owner, before the end of the 90-day period, to an arrangement to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1),

then that arrangement applies.

(c) If:

(1) an owner of a Minnesota professional firm dies or becomes disqualified to practice all the pertinent professional services;

(2) the Minnesota professional firm does not have in effect a mechanism as described in paragraph (a);

(3) the Minnesota professional firm does not make an arrangement as described in paragraph (b); and

(4) no provision or tenet of the Minnesota professional firm's generally applicable governing law and no provision of any document or agreement authorized by the Minnesota professional firm's generally applicable governing law expressly precludes an acquisition under this paragraph,

then the firm may acquire the deceased or disqualified owner's ownership interest as stated in this paragraph. To act under this paragraph, the Minnesota professional firm must within 90 days after the death or beginning of the disqualification tender to the representative of the deceased owner's estate or to the disqualified owner the fair value of the owner's ownership interest, as determined by the Minnesota professional firm's governance authority. That price must be at least the book value, as determined in accordance with the Minnesota professional firm's regular method of accounting, as of the end of the month immediately preceding the death or loss of license. The tender must be unconditional and may not attempt to have the recipient waive any rights provided in this section. If the Minnesota professional firm tenders a price under this paragraph within the 90-day period, the deceased or disqualified owner's ownership interest immediately transfers to the Minnesota professional firm regardless of any dispute as to the fairness of the price. A disqualified owner or representative of the deceased owner's estate who disputes the fairness of the tendered price may take the tendered price and bring suit in district court seeking additional payment. The suit must be commenced within one year after the payment is tendered. A Minnesota professional firm may agree with a disqualified owner or the representative of a deceased owner's estate to delay all or part of the payment due under this paragraph, but all right and title to the owner's ownership interests must be acquired before the end of the 90-day period and payment may not be secured in any way that violates sections 319B.01 to 319B.12.

Subd. 3. **Expiration of firm-issued option on death or disqualification of holder.** If the holder of an option issued under section 319B.07, subdivision 3, paragraph (a), clause (1), dies or becomes disqualified, the option automatically expires.

Subd. 4. **One-year period for surviving spouse of sole owner.** For purposes of this section, each mention of "90 days," "90-day period," or similar term shall be interpreted as one year after the death of a professional who was the sole owner of the professional firm if the surviving spouse of the deceased professional owns and controls the firm after the death.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 7. Minnesota Statutes 2008, section 319B.09, subdivision 1, is amended to read:

Subdivision 1. **Governance authority.** (a) Except as stated in paragraph (b), a professional firm's governance authority must rest with:

(1) one or more professionals, each of whom is licensed to furnish at least one category of the pertinent professional services; or

(2) a surviving spouse of a deceased professional who was the sole owner of the professional firm, while the surviving spouse owns and controls the firm, but only during the period of time ending one year after the death of the professional.

(b) In a Minnesota professional firm organized under chapter 317A and in a foreign professional firm organized under the nonprofit corporation statute of another state, at least one individual possessing governance authority must be a professional licensed to furnish at least one category of the pertinent professional services.

(c) Individuals who possess governance authority within a professional firm may delegate administrative and operational matters to others. No decision entailing the exercise of professional judgment may be delegated or assigned to anyone who is not a professional licensed to practice the professional services involved in the decision.

(d) An individual whose license to practice any pertinent professional services is revoked or suspended may not, during the time the revocation or suspension is in effect, possess or exercise governance authority, hold a position with governance authority, or take part in any decision or other action constituting an exercise of governance authority. Nothing in this chapter prevents a board from further terminating, restricting, limiting, qualifying, or imposing conditions on an individual's governance role as board disciplinary action.

(e) A professional firm owned and controlled by a surviving spouse must comply with all requirements of this chapter, except those clearly inapplicable to a firm owned and governed by a surviving spouse who is not a professional of the same type as the surviving spouse's decedent.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Dettmer was excused for the remainder of today's session.

Buesgens moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Page 2, line 1, delete "attorney"

Page 2, line 2, delete "fees."

Page 2, line 9, delete "plus reasonable attorney fees"

Page 2, delete lines 13 to 23

Page 2, line 24, delete "5" and insert "3"

Page 2, line 25, delete "and attorney fees"

Page 2, line 29, delete "6" and insert "4"

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 54 yeas and 77 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gunther	Kiffmeyer	Morgan	Seifert
Anderson, B.	Demmer	Hackbarth	Koenen	Murdock	Severson
Anderson, P.	Doepke	Hamilton	Kohls	Nornes	Shimanski
Anderson, S.	Downey	Holberg	Lanning	Obermueller	Smith
Beard	Drazkowski	Hoppe	Loon	Otremba	Sterner
Brod	Eken	Howes	Mack	Peppin	Thissen
Buesgens	Emmer	Jackson	Magnus	Rosenthal	Torkelson
Cornish	Garofalo	Kath	McFarlane	Sanders	Urdahl
Davids	Gottwalt	Kelly	McNamara	Scott	Zellers

Those who voted in the negative were:

Anzelc	Dittrich	Hornstein	Lieder	Norton	Simon
Atkins	Doty	Hortman	Lillie	Olin	Slawik
Benson	Falk	Hosch	Loeffler	Paymar	Slocum
Bigham	Faust	Huntley	Mahoney	Pelowski	Solberg
Bly	Fritz	Johnson	Mariani	Persell	Swails
Brown	Gardner	Juhnke	Marquart	Peterson	Thao
Brynaert	Greiling	Kahn	Masin	Poppe	Tillberry
Bunn	Hansen	Kalin	Morrow	Reinert	Wagenius
Carlson	Hausman	Knuth	Mullery	Rukavina	Ward
Champion	Haws	Laine	Murphy, E.	Ruud	Welti
Clark	Hayden	Lenczewski	Murphy, M.	Sailer	Winkler
Davnie	Hilstrom	Lesch	Nelson	Scalze	Spk. Kelliher
Dill	Hilty	Liebling	Newton	Sertich	

The motion did not prevail and the amendment was not adopted.

Scott moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Page 2, line 19, after "**fees**" insert "**: cap**"

Page 2, line 23, after the period, insert "An award of attorney fees under this section must not exceed \$30,000. Any fee awarded in excess of \$30,000 must be paid to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a)."

A roll call was requested and properly seconded.

The question was taken on the Scott amendment and the roll was called. There were 50 yeas and 80 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, S.	Buesgens	Dean	Downey	Falk
Anderson, B.	Beard	Cornish	Demmer	Drazkowski	Garofalo
Anderson, P.	Brod	Davids	Doepke	Emmer	Gottwalt



Gunther	Kath	Loon	Murdock	Seifert	Urdahl
Hackbarth	Kelly	Mack	Nornes	Severson	Zellers
Hamilton	Kiffmeyer	Magnus	Otremba	Shimanski	
Holberg	Koenen	McFarlane	Peppin	Smith	
Hoppe	Kohls	McNamara	Sanders	Sterner	
Jackson	Lanning	Morgan	Scott	Torkelson	

Those who voted in the negative were:

Anzelc	Doty	Hosch	Mahoney	Pelowski	Solberg
Atkins	Eken	Howes	Mariani	Persell	Swails
Benson	Faust	Huntley	Marquart	Peterson	Thao
Bigham	Fritz	Johnson	Masin	Poppe	Thissen
Bly	Gardner	Juhnke	Morrow	Reinert	Tillberry
Brown	Greiling	Kahn	Mullery	Rosenthal	Wagenius
Brynaert	Hansen	Kalin	Murphy, E.	Rukavina	Ward
Bunn	Hausman	Knuth	Murphy, M.	Ruud	Welti
Carlson	Haws	Laine	Nelson	Sailer	Winkler
Champion	Hayden	Lenczewski	Newton	Scalze	Spk. Kelliher
Clark	Hilstrom	Lesch	Norton	Sertich	
Davnie	Hilty	Liebling	Obermueller	Simon	
Dill	Hornstein	Lieder	Olin	Slawik	
Dittrich	Hortman	Loeffler	Paymar	Slocum	

The motion did not prevail and the amendment was not adopted.

Sanders moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Page 2, line 19, after "fees" insert ": cap"

Page 2, line 23, after the period, insert "An award of attorney fees under this section must not exceed \$30,000. Any fee awarded in excess of \$30,000 must be paid to the judicial branch programs for battered women's shelters and sexual assault victims."

A roll call was requested and properly seconded.

The question was taken on the Sanders amendment and the roll was called. There were 53 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gottwalt	Kiffmeyer	Morgan	Seifert
Anderson, B.	Dean	Gunther	Koenen	Murdock	Severson
Anderson, P.	Demmer	Hackbarth	Kohls	Nornes	Shimanski
Anderson, S.	Doepke	Hamilton	Lanning	Olin	Smith
Beard	Downey	Holberg	Loon	Otremba	Sterner
Brod	Drazkowski	Hoppe	Mack	Peppin	Torkelson
Buesgens	Emmer	Jackson	Magnus	Sanders	Urdahl
Bunn	Falk	Kath	McFarlane	Scalze	Zellers
Cornish	Garofalo	Kelly	McNamara	Scott	

Those who voted in the negative were:

Anzelc	Eken	Howes	Mahoney	Persell	Thao
Atkins	Faust	Huntley	Mariani	Peterson	Thissen
Benson	Fritz	Johnson	Marquart	Poppe	Tillberry
Bigham	Gardner	Juhnke	Masin	Reinert	Wagenius
Bly	Greiling	Kahn	Morrow	Rosenthal	Ward
Brown	Hansen	Kalin	Mullery	Rukavina	Welti
Brynaert	Hausman	Knuth	Murphy, E.	Ruud	Winkler
Carlson	Haws	Laine	Murphy, M.	Sailer	Spk. Kelliher
Champion	Hayden	Lenczewski	Nelson	Sertich	
Clark	Hilstrom	Lesch	Newton	Simon	
Davnie	Hilty	Liebling	Norton	Slawik	
Dill	Hornstein	Lieder	Obermueller	Slocum	
Dittrich	Hortman	Lillie	Paymar	Solberg	
Doty	Hosch	Loeffler	Pelowski	Swails	

The motion did not prevail and the amendment was not adopted.

Kelly moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Page 2, line 19, after "**fees**" insert "**; cap**"

Page 2, line 23, after the period, insert "An award of attorney fees under this section must not exceed \$30,000. Any fee awarded in excess of \$30,000 must be paid to youth intervention programs, as defined under Minnesota Statutes, section 299A.73, with an emphasis on those programs that provide early intervention youth services to children in their communities."

A roll call was requested and properly seconded.

The question was taken on the Kelly amendment and the roll was called. There were 51 yeas and 79 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gunther	Koenen	Murdock	Shimanski
Anderson, B.	Demmer	Hackbarth	Kohls	Nornes	Smith
Anderson, P.	Doepke	Hamilton	Lanning	Olin	Sterner
Anderson, S.	Downey	Holberg	Loon	Otremba	Torkelson
Beard	Drazkowski	Hoppe	Mack	Peppin	Urdahl
Brod	Emmer	Jackson	Magnus	Sanders	Zellers
Buesgens	Falk	Kath	McFarlane	Scott	
Cornish	Garfalo	Kelly	McNamara	Seifert	
Davids	Gottwalt	Kiffmeyer	Morgan	Severson	

Those who voted in the negative were:

Anzelc	Brynaert	Davnie	Faust	Hausman	Hornstein
Atkins	Bunn	Dill	Fritz	Haws	Hortman
Benson	Carlson	Dittrich	Gardner	Hayden	Hosch
Bly	Champion	Doty	Greiling	Hilstrom	Howes
Brown	Clark	Eken	Hansen	Hilty	Huntley

Johnson	Lieder	Murphy, E.	Peterson	Simon	Ward
Juhnke	Lillie	Murphy, M.	Poppe	Slawik	Welti
Kahn	Loeffler	Nelson	Reinert	Slocum	Winkler
Kalin	Mahoney	Newton	Rosenthal	Solberg	Spk. Kelliher
Knuth	Mariani	Norton	Rukavina	Swails	
Laine	Marquart	Obermueller	Ruud	Thao	
Lenczewski	Masin	Paymar	Sailer	Thissen	
Lesch	Morrow	Pelowski	Scalze	Tillberry	
Liebling	Mullery	Persell	Sertich	Wagenius	

The motion did not prevail and the amendment was not adopted.

Emmer moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Page 2, line 19, after "fees" insert "; cap"

Page 2, line 23, after the period, insert "An award of attorney fees under this section must not exceed \$30,000. Any fee awarded exceeding \$30,000 must be reimbursed to the contractor recovery fund under section 326B.89."

A roll call was requested and properly seconded.

Howes moved to amend the Emmer amendment to H. F. No. 417, the first engrossment, as amended, as follows:

Page 1, line 4, after "exceed" delete "\$30,000" and insert "\$30 per hour" and after "exceeding" delete "\$30,000" and insert "\$30 per hour"

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

The question recurred on the Emmer amendment, as amended, and the roll was called. There were 49 yeas and 82 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Hackbarth	Kohls	Otremba	Sterner
Anderson, B.	Demmer	Hamilton	Lanning	Peppin	Torkelson
Anderson, P.	Downey	Holberg	Loon	Reinert	Urdahl
Anderson, S.	Drazkowski	Hoppe	Mack	Sanders	Zellers
Beard	Emmer	Jackson	Magnus	Scott	
Brod	Falk	Kath	McNamara	Seifert	
Buesgens	Garofalo	Kelly	Morgan	Severson	
Cornish	Gottwalt	Kiffmeyer	Murdock	Shimanski	
Davids	Gunther	Koenen	Nornes	Smith	

Those who voted in the negative were:

Anzelc	Bigham	Brynaert	Champion	Dill	Doty
Atkins	Bly	Bunn	Clark	Dittrich	Eken
Benson	Brown	Carlson	Davnie	Doepke	Faust

Fritz	Hosch	Liebling	Murphy, E.	Poppe	Swails
Gardner	Howes	Lieder	Murphy, M.	Rosenthal	Thao
Greiling	Huntley	Lillie	Nelson	Rukavina	Thissen
Hansen	Johnson	Loeffler	Newton	Ruud	Tillberry
Hausman	Juhnke	Mahoney	Norton	Sailer	Wagenius
Haws	Kahn	Mariani	Obermueller	Scalze	Ward
Hayden	Kalin	Marquart	Olin	Sertich	Welti
Hilstrom	Knuth	Masin	Paymar	Simon	Winkler
Hilty	Laine	McFarlane	Pelowski	Slawik	Spk. Kelliher
Hornstein	Lenczewski	Morrow	Persell	Slocum	
Hortman	Lesch	Mullery	Peterson	Solberg	

The motion did not prevail and the amendment, as amended, was not adopted.

Holberg offered an amendment to H. F. No. 417, the first engrossment, as amended.

#### POINT OF ORDER

Atkins raised a point of order pursuant to rule 3.21 that the Holberg amendment was not in order. Speaker pro tempore Juhnke ruled the point of order well taken and the Holberg amendment out of order.

Zellers moved to amend H. F. No. 417, the first engrossment, as amended, as follows:

Delete everything after the enacting clause and insert:

**Section 1. [60A.0811] BREACH OF INSURANCE POLICY; RECOVERY OF DAMAGES AND ATTORNEY FEES.**

**Subdivision 1. Definitions.** For purposes of this section:

(1) "insurance policy" means a commercial or professional insurance policy or contract other than:

(i) a workers' compensation insurance policy or contract;

(ii) a health insurance policy or contract issued, executed, renewed, maintained, or delivered in this state by a health carrier as defined in section 62A.011, subdivision 2;

(iii) a life insurance or disability insurance policy or contract; or

(iv) a policy or contract issued by a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A;

(2) "insured" means any named insured, additional insured, or insured under an insurance policy; and

(3) "insurer" means an insurer:

(i) incorporated or organized in this state; or

(ii) admitted, authorized, or licensed to do business or doing business in this state but not incorporated or organized in this state. Insurer does not include the joint underwriting association operating under chapter 62F or 62I; or a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A.

**Subd. 2. Interest.** (a) An insured who prevails in any claim against an insurer based on the insurer's breach, repudiation or denial of, failure to fulfill, or delay in fulfilling, a duty to provide services or make payments is entitled to recover seven percent per annum interest on monetary amounts due under the insurance policy, calculated from the date the request for payment of those benefits was made to the insurer.

(b) Punitive damages or damages for nonmonetary losses are not recoverable under this section.

**Subd. 3. Effect of arbitration under section 65B.525.** If an insurer agrees to liability for personal injury protection, uninsured, or underinsured benefits under a policy of private passenger vehicle insurance under chapter 65B and only the amount of benefits is disputed, the insured is not entitled to recover attorney fees under this section if the insurer agrees to submit the dispute to binding arbitration or if binding arbitration is required under section 65B.525.

**Subd. 4. Application.** This section applies to a court action or arbitration proceeding, including an action seeking declaratory judgment.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to a cause of action arising on or after that date.

Sec. 2. Minnesota Statutes 2008, section 471.982, subdivision 3, is amended to read:

**Subd. 3. Exemptions.** Self-insurance pools established and open for enrollment on a statewide basis by the Minnesota League of Cities Insurance Trust, the Minnesota School Boards Association Insurance Trust, the Minnesota Association of Townships Insurance and Bond Trust, or the Minnesota Association of Counties Insurance Trust and the political subdivisions that belong to them are exempt from the requirements of this section and ~~section~~ sections 65B.48, subdivision 3, and 60A.0811. In addition, the Minnesota Association of Townships Insurance and Bond Trust and the townships that belong to it are exempt from the requirement to hold the certificate of surety authorization issued by the commissioner of commerce as provided in section 574.15."

A roll call was requested and properly seconded.

The question was taken on the Zellers amendment and the roll was called. There were 60 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hackbarth	Koenen	Obermueller	Severson
Anderson, B.	Dittrich	Hamilton	Kohls	Otremba	Shimanski
Anderson, P.	Doepke	Hansen	Lanning	Peppin	Slawik
Anderson, S.	Downey	Holberg	Loon	Peterson	Smith
Beard	Drazkowski	Hoppe	Mack	Rosenthal	Sterner
Brod	Emmer	Howes	Magnus	Ruud	Swails
Buesgens	Falk	Jackson	McFarlane	Sanders	Thissen
Cornish	Garofalo	Kath	McNamara	Scalze	Torkelson
Davids	Gottwalt	Kelly	Murdock	Scott	Urdahl
Dean	Gunther	Kiffmeyer	Nornes	Seifert	Zellers

Those who voted in the negative were:

Anzelc	Bigham	Brynaert	Champion	Dill	Faust
Atkins	Bly	Bunn	Clark	Doty	Fritz
Benson	Brown	Carlson	Davnie	Eken	Gardner

Greiling	Huntley	Liebling	Morrow	Pelowski	Solberg
Hausman	Johnson	Lieder	Mullery	Persell	Thao
Haws	Juhnke	Lillie	Murphy, E.	Poppe	Tillberry
Hayden	Kahn	Loeffler	Murphy, M.	Reinert	Wagenius
Hilstrom	Kalin	Mahoney	Nelson	Rukavina	Ward
Hilty	Knuth	Mariani	Newton	Sailer	Welti
Hornstein	Laine	Marquart	Norton	Sertich	Winkler
Hortman	Lenczewski	Masin	Olin	Simon	Spk. Kelliher
Hosch	Lesch	Morgan	Paymar	Slocum	

The motion did not prevail and the amendment was not adopted.

H. F. No. 417, A bill for an act relating to commerce; prohibiting certain claims processing practices by third-party administrators of health coverage plans; regulating health claims clearinghouses; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 60A.23, subdivision 8; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 60A; 62Q.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 75 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Hortman	Lillie	Norton	Smith
Anzelc	Falk	Hosch	Loeffler	Obermueller	Solberg
Atkins	Faust	Howes	Mahoney	Paymar	Swails
Benson	Fritz	Huntley	Mariani	Persell	Thao
Bigham	Gardner	Johnson	Marquart	Peterson	Thissen
Bly	Greiling	Juhnke	Masin	Poppe	Tillberry
Brynaert	Hansen	Kahn	Morgan	Reinert	Wagenius
Bunn	Hausman	Kalin	Morrow	Rukavina	Ward
Carlson	Haws	Knuth	Mullery	Sailer	Winkler
Champion	Hayden	Laine	Murphy, E.	Sertich	Spk. Kelliher
Clark	Hilstrom	Lenczewski	Murphy, M.	Simon	
Davnie	Hilty	Lesch	Nelson	Slawik	
Dill	Hornstein	Liebling	Newton	Slocum	

Those who voted in the negative were:

Anderson, B.	Demmer	Hackbarth	Lanning	Otremba	Shimanski
Anderson, P.	Dittrich	Hamilton	Lieder	Pelowski	Sterner
Anderson, S.	Doepke	Holberg	Loon	Peppin	Torkelson
Beard	Downey	Hoppe	Mack	Rosenthal	Urdahl
Brod	Drazkowski	Jackson	Magnus	Ruud	Welti
Brown	Eken	Kath	McFarlane	Sanders	Zellers
Buesgens	Emmer	Kelly	McNamara	Scalze	
Cornish	Garofalo	Kiffmeyer	Murdock	Scott	
Davids	Gottwalt	Koenen	Nornes	Seifert	
Dean	Gunther	Kohls	Olin	Severson	

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

The Speaker assumed the chair.

H. F. No. 523 was reported to the House.

Buesgens moved to amend H. F. No. 523 as follows:

Page 2, line 1, delete "does not" and insert "must"

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 39 yeas and 91 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Gottwalt	Kiffmeyer	Nornes	Smith
Anderson, P.	Doepke	Hackbarth	Kohls	Peppin	Sterner
Brod	Downey	Holberg	Loon	Sanders	Torkelson
Buesgens	Drazkowski	Hoppe	Mack	Scott	Zellers
Cornish	Emmer	Jackson	Magnus	Seifert	
Davids	Faust	Kath	McNamara	Severson	
Dean	Garofalo	Kelly	Murdock	Shimanski	

Those who voted in the negative were:

Abeler	Dittrich	Hosch	Loeffler	Otremba	Solberg
Anderson, S.	Doty	Howes	Mahoney	Paymar	Swails
Anzelc	Eken	Huntley	Mariani	Pelowski	Thao
Atkins	Falk	Johnson	Marquart	Persell	Thissen
Beard	Fritz	Juhnke	Masin	Peterson	Tillberry
Benson	Gardner	Kahn	McFarlane	Poppe	Urdahl
Bigham	Greiling	Kalin	Morgan	Reinert	Wagenius
Bly	Hamilton	Knuth	Morrow	Rosenthal	Ward
Brown	Hansen	Koenen	Mullery	Rukavina	Welti
Brynaert	Hausman	Laine	Murphy, E.	Ruud	Winkler
Bunn	Haws	Lanning	Murphy, M.	Sailer	Spk. Kelliher
Carlson	Hayden	Lenczewski	Nelson	Scalze	
Champion	Hilstrom	Lesch	Newton	Sertich	
Clark	Hilty	Liebling	Norton	Simon	
Davnie	Hornstein	Lieder	Obermueller	Slawik	
Dill	Hortman	Lillie	Olin	Slocum	

The motion did not prevail and the amendment was not adopted.

Holberg moved to amend H. F. No. 523 as follows:

Page 2, after line 3, insert:

"(c) For purposes of this subdivision, "disciplinary action" includes any action taken by the Board of Teaching, a school district, a local law enforcement agency, or other governmental entity as a result of a teacher registering any alcohol concentration on school grounds during the school day."

A roll call was requested and properly seconded.

The question was taken on the Holberg amendment and the roll was called. There were 120 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hansen	Kohls	Murdock	Scott
Anderson, B.	Dean	Hausman	Laine	Murphy, E.	Seifert
Anderson, P.	Demmer	Haws	Lanning	Murphy, M.	Severson
Anderson, S.	Dittrich	Hayden	Lenczewski	Newton	Shimanski
Anzelc	Doepke	Hilstrom	Liebling	Nornes	Simon
Atkins	Doty	Holberg	Lieder	Norton	Slawik
Beard	Downey	Hoppe	Lillie	Obermueller	Slocum
Benson	Drazkowski	Hornstein	Loeffler	Olin	Smith
Bigham	Eken	Hortman	Loon	Otremba	Sterner
Bly	Emmer	Hosch	Mack	Pelowski	Swails
Brod	Falk	Howes	Magnus	Peppin	Thissen
Brown	Faust	Jackson	Mahoney	Persell	Tillberry
Brynaert	Fritz	Johnson	Mariani	Peterson	Torkelson
Buesgens	Gardner	Juhnke	Marquart	Poppe	Urdahl
Bunn	Garofalo	Kalin	Masin	Reinert	Wagenius
Carlson	Gottwalt	Kath	McFarlane	Rosenthal	Ward
Champion	Greiling	Kelly	McNamara	Ruud	Welti
Clark	Gunther	Kiffmeyer	Morgan	Sailer	Winkler
Cornish	Hackbarth	Knuth	Morrow	Sanders	Zellers
Dauids	Hamilton	Koenen	Mullery	Scalze	Spk. Kelliher

Those who voted in the negative were:

Hilty	Lesch	Paymar	Sertich	Thao
Huntley	Nelson	Rukavina	Solberg	

The motion prevailed and the amendment was adopted.

Anderson, S., offered an amendment to H. F. No. 523, as amended.

#### POINT OF ORDER

Hilstrom raised a point of order pursuant to rule 3.21 that the Anderson, S., amendment was not in order. The Speaker ruled the point of order well taken and the Anderson, S., amendment out of order.

Anderson, S., appealed the decision of the Speaker.

A roll call was requested and properly seconded.



The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 86 yeas and 45 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Huntley	Loeffler	Paymar	Solberg
Atkins	Falk	Jackson	Mahoney	Pelowski	Sterner
Benson	Faust	Johnson	Mariani	Persell	Swails
Bigham	Fritz	Juhnke	Marquart	Peterson	Thao
Bly	Greiling	Kahn	Masin	Poppe	Thissen
Brown	Hansen	Kalin	Morgan	Reinert	Tillberry
Brynaert	Hausman	Kath	Morrow	Rosenthal	Wagenius
Carlson	Haws	Knuth	Mullery	Rukavina	Ward
Champion	Hayden	Koenen	Murphy, E.	Ruud	Welti
Clark	Hilstrom	Laine	Murphy, M.	Sailer	Winkler
Davnie	Hilty	Lenczewski	Nelson	Scalze	Spk. Kelliher
Dill	Hornstein	Lesch	Newton	Sertich	
Dittrich	Hortman	Liebling	Norton	Simon	
Doepke	Hosch	Lieder	Obermueller	Slawik	
Doty	Howes	Lillie	Olin	Slocum	

Those who voted in the negative were:

Abeler	Cornish	Garofalo	Kiffmeyer	Murdock	Shimanski
Anderson, B.	Davids	Gottwalt	Kohls	Nornes	Smith
Anderson, P.	Dean	Gunther	Lanning	Otremba	Torkelson
Anderson, S.	Demmer	Hackbarth	Loon	Peppin	Urdahl
Beard	Downey	Hamilton	Mack	Sanders	Zellers
Brod	Drazkowski	Holberg	Magnus	Scott	
Buesgens	Emmer	Hoppe	McFarlane	Seifert	
Bunn	Gardner	Kelly	McNamara	Severson	

So it was the judgment of the House that the decision of the Speaker should stand.

Clark was excused for the remainder of today's session.

Anderson, S., offered an amendment to H. F. No. 523, as amended.

#### POINT OF ORDER

Hortman raised a point of order pursuant to rule 3.21 that the Anderson, S., amendment was not in order. The Speaker ruled the point of order well taken and the Anderson, S., amendment out of order.

Anderson, S., appealed the ruling of the Speaker.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 83 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Anzelc	Falk	Jackson	Loeffler	Olin	Slawik
Atkins	Faust	Johnson	Mahoney	Paymar	Slocum
Benson	Fritz	Juhnke	Mariani	Pelowski	Solberg
Bigham	Greiling	Kahn	Marquart	Persell	Sterner
Bly	Hansen	Kalin	Masin	Peterson	Swails
Brown	Hausman	Kath	Morgan	Poppe	Thao
Brynaert	Haws	Knuth	Morrow	Reinert	Thissen
Carlson	Hayden	Koenen	Mullery	Rosenthal	Tillberry
Champion	Hilstrom	Laine	Murphy, E.	Rukavina	Wagenius
Davnie	Hilty	Lenczewski	Murphy, M.	Ruud	Ward
Dill	Hornstein	Lesch	Nelson	Sailer	Welti
Dittrich	Hortman	Liebling	Newton	Scalze	Winkler
Doty	Hosch	Lieder	Norton	Sertich	Spk. Kelliher
Eken	Huntley	Lillie	Obermueller	Simon	

Those who voted in the negative were:

Abeler	Cornish	Gardner	Howes	McFarlane	Seifert
Anderson, B.	Dauids	Garofalo	Kelly	McNamara	Severson
Anderson, P.	Dean	Gottwalt	Kiffmeyer	Murdock	Shimanski
Anderson, S.	Demmer	Gunther	Kohls	Nornes	Smith
Beard	Doepke	Hackbarth	Lanning	Otremba	Torkelson
Brod	Downey	Hamilton	Loon	Peppin	Urdahl
Buesgens	Drazkowski	Holberg	Mack	Sanders	Zellers
Bunn	Emmer	Hoppe	Magnus	Scott	

So it was the judgment of the House that the decision of the Speaker should stand.

H. F. No. 523, A bill for an act relating to education; modifying school background check requirements relating to disciplinary actions; amending Minnesota Statutes 2008, section 123B.03, subdivision 1a.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Brod	Dean	Faust	Hausman	Huntley
Anderson, B.	Brown	Demmer	Fritz	Haws	Jackson
Anderson, P.	Brynaert	Dittrich	Gardner	Hayden	Johnson
Anderson, S.	Buesgens	Doepke	Garofalo	Hilstrom	Juhnke
Anzelc	Bunn	Doty	Gottwalt	Holberg	Kahn
Atkins	Carlson	Downey	Greiling	Hoppe	Kalin
Beard	Champion	Drazkowski	Gunther	Hornstein	Kath
Benson	Cornish	Eken	Hackbarth	Hortman	Kelly
Bigham	Dauids	Emmer	Hamilton	Hosch	Kiffmeyer
Bly	Davnie	Falk	Hansen	Howes	Knuth

Koenen	Magnus	Murphy, M.	Peterson	Shimanski	Urdahl
Kohls	Mahoney	Nelson	Poppe	Simon	Wagenius
Laine	Mariani	Newton	Reinert	Slawik	Ward
Lanning	Marquart	Nornes	Rosenthal	Slocum	Welti
Lenczewski	Masin	Norton	Ruud	Smith	Winkler
Lesch	McFarlane	Obermueller	Sailer	Solberg	Zellers
Liebling	McNamara	Olin	Sanders	Sterner	Spk. Kelliher
Lieder	Morgan	Otremba	Scalze	Swails	
Lillie	Morrow	Paymar	Scott	Thao	
Loeffler	Mullery	Pelowski	Seifert	Thissen	
Loon	Murdock	Peppin	Sertich	Tillberry	
Mack	Murphy, E.	Persell	Severson	Torkelson	

Those who voted in the negative were:

Rukavina

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

Sertich moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

#### IN MEMORIAM

The members of the House paused for a moment of silence in memory of former Representative Tony Eckstein of New Ulm, Minnesota, who served from 1971-1978, who passed away on Monday, April 13, 2009.

#### MOTIONS AND RESOLUTIONS

Mahoney moved that the name of Mack be added as an author on H. F. No. 1081. The motion prevailed.

Haws moved that the names of Ward and Doty be added as authors on H. F. No. 1480. The motion prevailed.

Gardner moved that the name of Severson be added as an author on H. F. No. 1548. The motion prevailed.

Slawik moved that the name of Mack be added as an author on H. F. No. 1811. The motion prevailed.

Simon moved that the name of Johnson be added as an author on H. F. No. 2052. The motion prevailed.

Murphy, E., moved that the name of Ruud be added as an author on H. F. No. 2194. The motion prevailed.

Huntley moved that the name of Peterson be added as an author on H. F. No. 2306. The motion prevailed.

Huntley moved that the name of Peterson be added as an author on H. F. No. 2307. The motion prevailed.

Huntley moved that the name of Peterson be added as an author on H. F. No. 2316. The motion prevailed.

Kalin moved that the names of Eastlund and Dettmer be added as authors on H. F. No. 2317. The motion prevailed.

Rukavina moved that H. F. No. 1169, now on the General Register, be re-referred to the Committee on Finance. The motion prevailed.

#### ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 4:00 p.m., Friday, April 17, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 4:00 p.m., Friday, April 17, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives