

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2010

 EIGHTY-NINTH DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 19, 2010

The House of Representatives convened at 12:00 noon and was called to order by Margaret Anderson Kelliher, Speaker of the House.

Prayer was offered by the Reverend Dennis J. Johnson, House Chaplain.

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

A quorum was present.

Slawik was excused.

Mariani was excused until 12:30 p.m. Hackbarth and Mack were excused until 12:40 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Garofalo 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. 2752 and H. F. No. 3152, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Bunn moved that the rules be so far suspended that S. F. No. 2752 be substituted for H. F. No. 3152 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 15, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Kelliher:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 212, relating to courts; eliminating the prerequisite of pretrial filing of a transcript for admission into evidence of law enforcement vehicle recordings.

H. F. No. 2616, relating to traffic regulations; allowing bicyclist to stop and proceed through red light under limited circumstances.

H. F. No. 2823, relating to real property; clarifying a definition; making changes relating to common interest community certificates.

H. F. No. 3065, relating to local government; providing for securities lending agreements and holding of municipal funds.

H. F. No. 3277, relating to commerce; specifying that advertising of deceptive local telephone numbers for businesses is a deceptive trade practice.

H. F. No. 3362, relating to environment; modifying petroleum tank release provisions.

H. F. No. 3174, relating to public safety; amending the predatory offender registration law to address registrants living in homeless shelters and to clarify that the registration requirement for offenders who move out of state are suspended not terminated.

H. F. No. 3143, relating to tourism; amending council membership requirements.

H. F. No. 3460, relating to motor vehicles; changing definition to conform to International Registration Plan for commercial motor vehicles.

H. F. No. 3128, relating to probate; clarifying the powers of health care agents, guardians, and others to make health care decisions for wards and protected persons; modifying provisions governing guardians and conservators.

Sincerely,

TIM PAWLENTY
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2010 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| <i>S. F. No.</i> | <i>H. F. No.</i> | <i>Session Laws Chapter No.</i> | <i>Time and Date Approved 2010</i> | <i>Date Filed 2010</i> |
|----------------------|----------------------|-------------------------------------|--|----------------------------|
| | 212 | 231 | 11:46 a.m. April 15 | April 15 |
| | 2616 | 232 | 11:47 a.m. April 15 | April 15 |
| | 2823 | 233 | 11:48 a.m. April 15 | April 15 |
| | 3065 | 234 | 11:49 a.m. April 15 | April 15 |
| | 3277 | 235 | 11:51 a.m. April 15 | April 15 |
| 987 | | 236 | 11:52 a.m. April 15 | April 15 |
| 2559 | | 237 | 11:54 a.m. April 15 | April 15 |
| 2562 | | 238 | 11:56 a.m. April 15 | April 15 |
| 2517 | | 239 | 11:57 a.m. April 15 | April 15 |
| 2322 | | 240 | 11:58 a.m. April 15 | April 15 |
| | 3362 | 241 | 11:59 a.m. April 15 | April 15 |
| 3091 | | 242 | 12:00 noon April 15 | April 15 |
| 2852 | | 243 | 12:02 p.m. April 15 | April 15 |
| 2475 | | 244 | 12:03 p.m. April 15 | April 15 |

| | | | |
|------|------|---------------------|----------|
| 2580 | 245 | 12:05 p.m. April 15 | April 15 |
| 2923 | 246 | 12:06 p.m. April 15 | April 15 |
| 2616 | 247 | 12:09 p.m. April 15 | April 15 |
| 2877 | 248 | 12:10 p.m. April 15 | April 15 |
| 2722 | 249 | 12:16 p.m. April 15 | April 15 |
| 2705 | 250 | 12:17 p.m. April 15 | April 15 |
| | 3174 | 12:19 p.m. April 15 | April 15 |
| | 3143 | 12:20 p.m. April 15 | April 15 |
| | 3460 | 12:21 p.m. April 15 | April 15 |
| | 3128 | 12:22 p.m. April 15 | April 15 |

Sincerely,

MARK RITCHIE
Secretary of State

REPORTS OF STANDING COMMITTEES AND DIVISIONS

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

H. F. No. 2037, A bill for an act relating to state government; moving appropriations of general fund dedicated revenues to other funds; amending Minnesota Statutes 2008, sections 3.9741, subdivision 2; 8.15, subdivision 3; 13.03, subdivision 10; 16C.23, subdivision 6; 103B.101, subdivision 9; 103I.681, subdivision 11; 116J.551, subdivision 1; 190.32; 260C.331, subdivision 6; 299C.48; 299E.02; 446A.086, subdivision 2; 469.177, subdivision 11; 609.3241; 611.20, subdivision 3; Minnesota Statutes 2009 Supplement, section 270.97; Laws 1994, chapter 531, section 1.

Reported the same back with the following amendments:

Page 4, after line 23, insert:

"Sec. 9. Minnesota Statutes 2008, section 257.69, subdivision 2, is amended to read:

Subd. 2. **Guardian; legal fees.** (a) The court may order expert witness and guardian ad litem fees and other costs of the trial and pretrial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. The agency responsible for child support enforcement shall pay the fees and costs for blood or genetic tests in a proceeding in which it is a party, is the real party in interest, or is acting on behalf of the child. However, at the close of a proceeding in which paternity has been established under sections 257.51 to 257.74, the court shall order the adjudicated father to reimburse the public agency, if the court finds he has sufficient resources to pay the costs of the blood or genetic tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the court administrator.

(b) In each fiscal year, the commissioner of management and budget shall deposit guardian ad litem reimbursements in the ~~general~~ special revenue fund and credit them to a separate account with the trial courts. The balance of this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator's office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district."

Page 8, line 21, delete "17" and insert "18"

Renumber the sections in sequence

Correct the title numbers accordingly

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:

H. F. No. 2781, A bill for an act relating to economic development, labor, and industry; modifying grant and loan programs; modifying duties; making technical changes; defining terms; creating the Minnesota Science and Technology Authority; modifying licensing provisions; imposing and modifying fees; modifying construction codes; requesting a study; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 116J.435, as amended; 116J.437, subdivision 1; 116J.8731, subdivisions 1, 4; 116J.996; 116L.665, subdivisions 3, 6, by adding a subdivision; 136F.06, by adding a subdivision; 268.035, by adding a subdivision; 268.085, subdivision 16; 268.095, subdivision 5; 268.101, by adding a subdivision; 268.184, subdivision 1; 326B.133, subdivisions 1, 3, 8, 11, by adding subdivisions; 326B.197; 326B.33, subdivisions 18, 20, 21; 326B.42, by adding subdivisions; 326B.44; 326B.46, as amended; 326B.47; 326B.475, subdivision 2; 326B.50, by adding subdivisions; 326B.54; 326B.55, as amended; 326B.56, as amended; 326B.805, subdivision 6; 326B.83, subdivisions 1, 3, 6; 326B.865; 326B.921, subdivisions 2, 4, 7; 326B.922; 326B.978, subdivision 2, by adding a subdivision; 327.31, subdivision 17, by adding subdivisions; 327.32, subdivision 1, by adding subdivisions; 327.34, subdivision 1; 327B.04, subdivision 2; 471.59, subdivision 10; Minnesota Statutes 2009 Supplement, sections 116J.8731, subdivision 3; 268.035, subdivision 23a; 268.095, subdivisions 2, 6; 268.105, subdivision 1; 326B.33, subdivision 19; 326B.475, subdivision 4; 326B.49, subdivision 1; 326B.58; 326B.815, subdivision 1; 326B.86, subdivision 1; 326B.94, subdivision 4; 326B.986, subdivision 5; 327B.04, subdivisions 7, 7a, 8; 327B.041; Laws 2009, chapter 78, article 1, section 3, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 116L; 326B; proposing coding for new law as Minnesota Statutes, chapter 116W; repealing Minnesota Statutes 2008, sections 116J.657; 326B.133, subdivisions 9, 10; 326B.37, subdivision 13; 326B.475, subdivisions 5, 6; 326B.56, subdivision 3; 326B.885, subdivisions 3, 4; 326B.976; 327.32, subdivision 4; 327C.07, subdivisions 3a, 8; Minnesota Statutes 2009 Supplement, section 326B.56, subdivision 4; Minnesota Rules, parts 1301.0500; 1301.0900; 1301.1100, subparts 2, 3, 4; 1350.7200, subpart 3; 1350.8000, subpart 2.

Reported the same back with the following amendments:

Page 2, delete section 1

Page 11, line 20, before "commissioner" insert "state chief information officer, the"

Page 16, line 6, after "members," insert "and" and delete "and compensation of members"

Page 16, line 7, delete everything after the period and insert "The executive director may provide compensation to members if funds are available."

Page 16, delete line 8

Page 19, delete lines 12 to 14 and insert:

"(h) A job assignment with a staffing service is considered suitable only if 75 percent or more of the applicant's wage credits are from job assignments with clients of a staffing service and the job assignment meets the definition of suitable employment under paragraph (a)."

Page 21, line 20, after the period, insert "The term "egregious," as used in this subdivision, sets a high threshold, and application of the term must take into consideration section 268.031, subdivision 2."

Page 22, line 13, delete everything after the period

Page 22, delete lines 14 and 15

Page 78, after line 19, insert:

"Sec. 100. Laws 2010, chapter 216, section 58, is amended to read:

Sec. 58. **2010 DISTRIBUTIONS ONLY.**

For distributions in 2010 only, a special fund is established to receive 28.757 cents per ton that otherwise would be allocated under Minnesota Statutes, section 298.28, subdivision 6. The following amounts are allocated to St. Louis County acting as the fiscal agent for the recipients for the specific purposes:

(1) 0.764 cent per ton must be paid to Northern Minnesota Dental to provide incentives for at least two dentists to establish dental practices in high-need areas of the taconite tax relief area;

(2) 0.955 cent per ton must be paid to the city of Virginia for repairs and geothermal heat at the Olcott Park Greenhouse/Virginia Commons project;

(3) 0.796 cent per ton must be paid to the city of Virginia for health and safety repairs at the Miners Memorial;

(4) 1.114 cents per ton must be paid to the city of Eveleth for the reconstruction of Highway 142/Grant and Park Avenues;

(5) 0.478 cent per ton must be paid to the Greenway Joint Recreation Board for upgrades and capital improvements to the public arena in Coleraine;

(6) 0.796 cent per ton must be paid to the city of Calumet for water treatment and pumphouse modifications;

(7) 0.159 cent per ton must be paid to the city of Bovey for residential and commercial claims for water damage due to water and flood-related damage caused by the Canisteo Pit;

(8) 0.637 cent per ton must be paid to the city of Nashwauk for a community and child care center;

(9) 0.637 cent per ton must be paid to the city of Keewatin for water and sewer upgrades;

(10) 0.637 cent per ton must be paid to the city of Marble for the city hall and library project;

(11) 0.955 cent per ton must be paid to the city of Grand Rapids for extension of water and sewer services for Lakewood Housing;

- (12) 0.159 cent per ton must be paid to the city of Grand Rapids for exhibits at the Children's Museum;
- (13) 0.637 cent per ton must be paid to the city of Grand Rapids for Block 20/21 soil corrections. This amount must be matched by local sources;
- (14) 0.605 cent per ton must be paid to the city of Aitkin for three water loops;
- (15) 0.048 cent per ton must be paid to the city of Aitkin for signage;
- (16) 0.159 cent per ton must be paid to Aitkin County for a trail;
- (17) 0.637 cent per ton must be paid to the city of Cohasset for the Beiers Road railroad crossing;
- (18) 0.088 cent per ton must be paid to the town of Clinton for expansion and striping of the community center parking lot;
- (19) 0.398 cent per ton must be paid to the city of Kinney for water line replacement;
- (20) 0.796 cent per ton must be paid to the city of Gilbert for infrastructure improvements, milling, and overlay for Summit Street between Alaska Avenue and Highway 135;
- (21) 0.318 cent per ton must be paid to the city of Gilbert for sanitary sewer main replacements and improvements in the Northeast Lower Alley area;
- (22) 0.637 cent per ton must be paid to the town of White for replacement of the Stepetz Road culvert;
- (23) 0.796 cent per ton must be paid to the city of Buhl for reconstruction of Sharon Street and associated infrastructure;
- (24) 0.796 cent per ton must be paid to the city of Mountain Iron for site improvements at the Park Ridge development;
- (25) 0.796 cent per ton must be paid to the city of Mountain Iron for infrastructure and site preparation for its renewable and sustainable energy park;
- (26) 0.637 cent per ton must be paid to the city of Biwabik for sanitary sewer improvements;
- (27) 0.796 cent per ton must be paid to the city of Aurora for alley and road rebuilding for the Summit Addition;
- (28) 0.955 cent per ton must be paid to the city of Silver Bay for bioenergy facility improvements;
- (29) 0.318 cent per ton must be paid to the city of Grand Marais for water and sewer infrastructure improvements;
- (30) 0.318 cent per ton must be paid to the city of Orr for airport, water, and sewer improvements;
- (31) 0.716 cent per ton must be paid to the city of Cook for street and bridge improvements;
- (32) 0.955 cent per ton must be paid to the city of Ely for street, water, and sewer improvements;
- (33) 0.318 cent per ton must be paid to the city of Tower for water and sewer improvements;

- (34) 0.955 cent per ton must be paid to the city of Two Harbors for water and sewer improvements;
- (35) 0.637 cent per ton must be paid to the city of Babbitt for water and sewer improvements;
- (36) 0.096 cent per ton must be paid to the township of Duluth for infrastructure improvements;
- (37) 0.096 cent per ton must be paid to the township of Tofte for infrastructure improvements;
- (38) 3.184 cents per ton must be paid to the city of Hibbing for sewer improvements;
- (39) 1.273 cents per ton must be paid to the city of Chisholm for NW Area Project infrastructure improvements;
- (40) 0.318 cent per ton must be paid to the city of Chisholm for health and safety improvements at the athletic facility;
- (41) 0.796 cent per ton must be paid to the city of Hoyt Lakes for residential street improvements;
- (42) 0.796 cent per ton must be paid to the Bois Forte Indian Reservation for infrastructure related to a housing development;
- (43) 0.159 cent per ton must be paid to Balkan Township for building improvements;
- (44) 0.159 cent per ton must be paid to the city of Grand Rapids for a grant to a nonprofit for a signage kiosk;
- (45) 0.318 cent per ton must be paid to the city of Crane Lake for sanitary sewer lines and adjacent development near County State-Aid Highway 24; and
- (46) 0.159 cent per ton must be paid to the city of Chisholm to rehabilitate historic wall infrastructure around the athletic complex.

EFFECTIVE DATE. This section is effective ~~for the 2010 distribution, all of which must be made in the August 2010 payment~~ retroactively from the day following final enactment.

EFFECTIVE DATE. This section is effective retroactively from April 2, 2010."

Page 78, delete lines 21 to 25 and insert:

"(a) The commissioner of employment and economic development, in consultation with workforce service area staff, must, as soon as practical, develop and implement processes and procedures to ensure that unemployed Minnesotans who go to a workforce center are provided, to the fullest extent possible, seamless assistance in applying for unemployment benefits, accessing resource room resources, searching for jobs, accessing training and other services available to unemployed workers, and receiving answers to questions about unemployment insurance.

(b) The actions taken to comply with paragraph (a) must include, at a minimum, the implementation of a procedure by which unemployed Minnesotans may receive, at their option, face-to-face consultation and assistance in their local workforce center on applying for unemployment benefits, accessing resource room resources, searching for jobs, accessing training and other services available to unemployed workers, and receiving answers to questions about unemployment insurance.

(c) The commissioner is authorized and encouraged to maximize the use of existing employees and federal dollars to accomplish paragraph (a), including, but not limited to, paying portions of existing employees' salaries from more than one source of funding, ensuring that employees are cross-trained to perform functions beyond that

required by paragraph (b) when such employees are stationed in workforce centers, and implementing need-based scheduling of employees to ensure that each workforce center is adequately staffed during peak demand hours for the services contemplated by paragraph (a).

(d) By September 1, 2010, the commissioner must provide an initial written report to the chairs and ranking minority members of the standing committees of the senate and house of representatives having jurisdiction over economic and workforce development issues on the actions taken under paragraph (a) and the result of those actions. The report must include detailed information on new additional resources provided by the department to ensure that the issues in paragraph (a) are addressed. A second report with updated information must be provided to the chairs and ranking minority members of the standing committees of the senate and house of representatives having jurisdiction over economic and workforce development issues by January 15, 2011.

EFFECTIVE DATE. This section is effective the day following final enactment and expires August 31, 2011."

Page 79, line 16, after the second "**OF**" insert "**STATE DEPOSITORY ACCOUNTS AND**"

Page 79, line 20, after "institutions" insert "and transferring the state's major and minor accounts to community financial institutions"

Page 79, line 21, delete "and"

Page 79, after line 21, insert:

"(2) the potential economic benefit of transferring all major and minor accounts to community financial institutions; and"

Page 79, line 22, delete "(2)" and insert "(3)" and delete "municipalities" and insert "governmental entities as defined by Minnesota Statutes, section 118A.01, subdivision 2,"

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

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. 3702, A bill for an act relating to environment finance; requiring long-range land management budgeting of the Department of Natural Resources.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 84.025, subdivision 9, is amended to read:

Subd. 9. **Professional services support account.** The commissioner of natural resources may bill other governmental units, including tribal governments, and the various programs carried out by the commissioner for the costs of providing them with professional support services. Except as provided under section 89.421, receipts must be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

The commissioner of natural resources shall submit to the commissioner of management and budget before the start of each fiscal year a work plan showing the estimated work to be done during the coming year, the estimated cost of doing the work, and the positions and fees that will be necessary. This account is exempted from statewide and agency indirect cost payments.

Sec. 2. Minnesota Statutes 2008, section 84.027, subdivision 15, is amended to read:

Subd. 15. **Electronic transactions.** (a) The commissioner may receive an application for, sell, and issue any license, stamp, permit, pass, sticker, ~~duplicate gift card~~, safety training certification, registration, or transfer under the jurisdiction of the commissioner by electronic means, including by telephone. Notwithstanding section 97A.472, electronic and telephone transactions may be made outside of the state. The commissioner may:

- (1) provide for the electronic transfer of funds generated by electronic transactions, including by telephone;
 - (2) assign an identification number to an applicant who purchases a hunting or fishing license or recreational vehicle registration by electronic means, to serve as temporary authorization to engage in the activity requiring a license or registration until the license or registration is received or expires;
 - (3) charge and permit agents to charge a fee of individuals who make electronic transactions and transactions by telephone or Internet, including issuing fees and an additional transaction fee not to exceed \$3.50;
 - (4) charge and permit agents to charge a convenience fee not to exceed three percent of the cost of the license to individuals who use electronic bank cards for payment. An electronic licensing system agent charging a fee of individuals making an electronic bank card transaction in person must post a sign informing individuals of the fee. The sign must be near the point of payment, clearly visible, include the amount of the fee, and state: "License agents are allowed by state law to charge a fee not to exceed three percent of the cost of state licenses to persons who use electronic bank cards for payment. The fee is not required by state law.";
 - (5) establish, by written order, an electronic licensing system commission to be paid by revenues generated from all sales made through the electronic licensing system. The commissioner shall establish the commission in a manner that neither significantly overrecovers nor underrecovers costs involved in providing the electronic licensing system; and
 - (6) adopt rules to administer the provisions of this subdivision.
- (b) The fees established under paragraph (a), clauses (3) and (4), and the commission established under paragraph (a), clause (5), are not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.
- (c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

Sec. 3. Minnesota Statutes 2008, section 84.0856, is amended to read:

84.0856 FLEET MANAGEMENT ACCOUNT.

The commissioner of natural resources may bill organizational units within the Department of Natural Resources and other governmental units, including tribal governments, for the costs of providing them with equipment. Costs billed may include acquisition, licensing, insurance, maintenance, repair, and other direct costs as determined by the commissioner. Receipts and interest earned on the receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

Sec. 4. Minnesota Statutes 2008, section 84.0857, is amended to read:

84.0857 FACILITIES MANAGEMENT ACCOUNT.

(a) The commissioner of natural resources may bill organizational units within the Department of Natural Resources and other governmental units, including tribal governments, for the costs of providing them with building and infrastructure facilities. Costs billed may include modifications and adaptations to allow for appropriate building occupancy, building code compliance, insurance, utility services, maintenance, repair, and other direct costs as determined by the commissioner. Receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

(b) Money deposited in the special account from the proceeds of a sale under section 94.16, subdivision 3, paragraph (b), is appropriated to the commissioner to acquire facilities or renovate existing buildings for administrative use or to acquire land for, design, and construct administrative buildings for the Department of Natural Resources.

Sec. 5. Minnesota Statutes 2008, section 84.415, is amended by adding a subdivision to read:

Subd. 3a. **Joint applications for residential use.** An application for a utility license may cover more than one type of utility if the utility lines are being installed for residential use only. Separate applications submitted by utilities for the same crossing shall be joined together and processed as one application, provided that the applications are submitted within one year of each other and the utility lines are for residential use only. The application fees for a joint application or separate applications subsequently joined together shall be as if only one application was submitted.

Sec. 6. Minnesota Statutes 2009 Supplement, section 84.415, subdivision 6, is amended to read:

Subd. 6. **Supplemental application fee and monitoring fee.** (a) In addition to the application fee and utility crossing fees specified in Minnesota Rules, the commissioner of natural resources shall assess the applicant for a utility license the following fees:

(1) a supplemental application fee of ~~\$1,500~~ \$2,000 for a public water crossing license and a supplemental application fee of ~~\$4,500~~ \$2,000 for a public lands crossing license, to cover reasonable costs for reviewing the application and preparing the license; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the utility line and preparing special terms and conditions of the license to ensure proper construction. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(b) The applicant shall pay fees under this subdivision to the commissioner of natural resources. The commissioner shall not issue the license until the applicant has paid all fees in full.

(c) Upon completion of construction of the improvement for which the license or permit was issued, the commissioner shall refund the unobligated balance from the monitoring fee revenue. The commissioner shall not return the application fees, even if the application is withdrawn or denied.

(d) If the fees collected under paragraph (a), clause (1), are not sufficient to cover the costs of reviewing the applications and preparing the licenses, the commissioner shall improve efficiencies and otherwise reduce department costs and activities to ensure the revenues raised under paragraph (a), clause (1), are sufficient, and that no other funds are necessary to carry out the requirements.

Sec. 7. Minnesota Statutes 2008, section 84.777, subdivision 2, is amended to read:

Subd. 2. **Off-highway vehicle seasons seasonal restrictions.** ~~(a) The commissioner shall prescribe seasons for off-highway vehicle use on state forest lands. Except for designated forest roads, a person must not operate an off-highway vehicle on state forest lands outside of the seasons prescribed under this paragraph. during the firearms deer hunting season in areas of the state where deer may be taken by rifle. This paragraph does not apply to a person in possession of a valid deer hunting license operating an off-highway vehicle before or after legal shooting hours or from 11:00 a.m. to 2:00 p.m.~~

(b) The commissioner may designate and post winter trails on state forest lands for use by off-highway vehicles.

(c) For the purposes of this subdivision, "state forest lands" means forest lands under the authority of the commissioner as defined in section 89.001, subdivision 13, and lands managed by the commissioner under section 282.011.

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

Sec. 8. Minnesota Statutes 2008, section 84.788, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** Registration is not required for off-highway motorcycles:

(1) owned and used by the United States, an Indian tribal government, the state, another state, or a political subdivision;

(2) registered in another state or country that have not been within this state for more than 30 consecutive days; or

(3) registered under chapter 168, when operated on forest roads to gain access to a state forest campground.

Sec. 9. Minnesota Statutes 2009 Supplement, section 84.793, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** ~~(a) After January 1, 1995,~~ A person less than 16 years of age operating an off-highway motorcycle on public lands or waters must possess a valid off-highway motorcycle safety certificate issued by the commissioner.

(b) Except for operation on public road rights-of-way that is permitted under section 84.795, subdivision 1, a driver's license issued by the state or another state is required to operate an off-highway motorcycle along or on a public road right-of-way.

(c) A person under 12 years of age may not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an off-highway motorcycle on a public road right-of-way in the state; or

(3) operate an off-highway motorcycle on public lands or waters unless accompanied by a person 18 years of age or older or participating in an event for which the commissioner has issued a special use permit.

(d) Except for public road rights-of-way of interstate highways, a person less than 16 years of age may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway only if that person is accompanied by a person 18 years of age or older who holds a valid driver's license.

(e) A person less than 16 years of age may operate an off-highway motorcycle on public road rights-of-way in accordance with section 84.795, subdivision 1, paragraph (a), only if that person is accompanied by a person 18 years of age or older who holds a valid driver's license.

(f) Notwithstanding paragraph (a), a nonresident less than 16 years of age may operate an off-highway motorcycle on public lands or waters if the nonresident youth has in possession evidence of completing an off-road safety course offered by the Motorcycle Safety Foundation or another state as provided in section 84.791, subdivision 4.

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

Sec. 10. Minnesota Statutes 2008, section 84.798, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** Registration is not required for an off-road vehicle that is:

(1) owned and used by the United States, an Indian tribal government, the state, another state, or a political subdivision; or

(2) registered in another state or country and has not been in this state for more than 30 consecutive days.

Sec. 11. Minnesota Statutes 2008, section 84.82, subdivision 3, is amended to read:

Subd. 3. **Fees for registration.** (a) The fee for registration of each snowmobile, other than those used for an agricultural purpose, as defined in section 84.92, subdivision 1c, or those registered by a dealer or manufacturer pursuant to clause (b) or (c) shall be as follows: \$45 for three years and \$4 for a duplicate or transfer.

(b) The total registration fee for all snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be \$50 per year.

(c) The total registration fee for all snowmobiles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes shall be \$150 per year. Dealer and manufacturer registrations are not transferable.

(d) The onetime fee for registration of an exempt snowmobile under subdivision 6a is \$6.

Sec. 12. Minnesota Statutes 2008, section 84.82, subdivision 6, is amended to read:

Subd. 6. **Exemptions.** Registration is not required under this section for:

(1) a snowmobile owned and used by the United States, an Indian tribal government, another state, or a political subdivision thereof;

- (2) a snowmobile registered in a country other than the United States temporarily used within this state;
- (3) a snowmobile that is covered by a valid license of another state and has not been within this state for more than 30 consecutive days;
- (4) a snowmobile used exclusively in organized track racing events;
- (5) a snowmobile in transit by a manufacturer, distributor, or dealer;
- (6) a snowmobile at least 15 years old in transit by an individual for use only on land owned or leased by the individual; or
- (7) a snowmobile while being used to groom a state or grant-in-aid trail.

Sec. 13. Minnesota Statutes 2008, section 84.82, is amended by adding a subdivision to read:

Subd. 6a. **Exemption; collector unlimited snowmobile use.** Snowmobiles may be issued an exempt registration if the machine is at least 25 years old. Exempt registration is valid from the date of issuance until ownership of the snowmobile is transferred. Exempt registrations are not transferable.

Sec. 14. Minnesota Statutes 2008, section 84.8205, subdivision 1, is amended to read:

Subdivision 1. **Sticker required; fee.** (a) Except as provided in paragraph (b), a person may not operate a snowmobile on a state or grant-in-aid snowmobile trail unless a snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural resources shall issue a sticker upon application and payment of a \$15 fee. The fee for a three-year snowmobile state trail sticker that is purchased at the time of snowmobile registration is \$30. In addition to other penalties prescribed by law, a person in violation of this subdivision must purchase an annual state trail sticker for a fee of \$30. The sticker is valid from November 1 through June 30. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the snowmobile trails and enforcement 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, trail maintenance, grooming, and easement acquisition.

(b) A state trail sticker is not required under this section for:

- (1) a snowmobile owned by the state or a political subdivision of the state that is registered under section 84.82, subdivision 5;
 - (2) a snowmobile that is owned and used by the United States, an Indian tribal government, another state, or a political subdivision thereof that is exempt from registration under section 84.82, subdivision 6;
 - (3) a collector snowmobile that is operated as provided in a special permit issued for the collector snowmobile under section 84.82, subdivision 7a;
 - (4) a person operating a snowmobile only on the portion of a trail that is owned by the person or the person's spouse, child, or parent; or
 - (5) a snowmobile while being used to groom a state or grant-in-aid trail.
- (c) A temporary registration permit issued by a dealer under section 84.82, subdivision 2, may include a snowmobile state trail sticker if the trail sticker fee is included with the registration application fee.

Sec. 15. Minnesota Statutes 2008, section 84.92, subdivision 9, is amended to read:

Subd. 9. **Class 1 all-terrain vehicle.** "Class 1 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of less than ~~900~~ 1,000 pounds.

Sec. 16. Minnesota Statutes 2008, section 84.92, subdivision 10, is amended to read:

Subd. 10. **Class 2 all-terrain vehicle.** "Class 2 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of ~~900~~ 1,000 to ~~1,500~~ 1,800 pounds.

Sec. 17. Minnesota Statutes 2009 Supplement, 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, an Indian tribal government, 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;

(4) vehicles used exclusively in organized track racing events; and

(5) vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer.

Sec. 18. Minnesota Statutes 2008, section 84.922, is amended by adding a subdivision to read:

Subd. 2b. **Collector unlimited use; exempt registration.** All-terrain vehicles may be issued an exempt registration if requested and the machine is at least 25 years old. Exempt registration is valid from the date of issuance until ownership of the all-terrain vehicle is transferred. Exempt registrations are not transferable.

Sec. 19. Minnesota Statutes 2008, section 84.922, subdivision 5, is amended to read:

Subd. 5. **Fees for registration.** (a) The fee for a three-year registration of an all-terrain vehicle under this section, other than those registered by a dealer or manufacturer under paragraph (b) or (c), is:

(1) for public use, \$45;

(2) for private use, \$6; and

(3) for a duplicate or transfer, \$4.

(b) The total registration fee for all-terrain vehicles owned by a dealer and operated for demonstration or testing purposes is \$50 per year. Dealer registrations are not transferable.

(c) The total registration fee for all-terrain vehicles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes is \$150 per year. Manufacturer registrations are not transferable.

(d) The onetime fee for registration of an all-terrain vehicle under subdivision 2b is \$6.

(e) The fees collected under this subdivision must be credited to the all-terrain vehicle account.

Sec. 20. Minnesota Statutes 2008, section 84.925, subdivision 1, is amended to read:

Subdivision 1. **Program established.** (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate all-terrain vehicle safety certificate. The commissioner shall establish the fee for a duplicate all-terrain vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. Fee proceeds, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person the cost of up to the established fee amount for class material ~~materials~~ and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

Sec. 21. Minnesota Statutes 2008, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph (f).

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters or state or grant-in-aid trails, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied ~~on another all-terrain vehicle~~ by a person 18 years of age or older who holds a valid driver's license.

(d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:

(1) successfully complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least 11 years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under paragraph (d), but the certificate is not valid until the person reaches age 12.

(f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

(g) A person under 15 years of age shall not operate a class 2 all-terrain vehicle.

(h) A person under the age of 16 may not operate an all-terrain vehicle on public lands or waters or on state or grant-in-aid trails if the person cannot properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(i) Notwithstanding paragraph (c), a nonresident at least 12 years old, but less than 16 years old, may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate an all-terrain vehicle on public lands and waters or state or grant-in-aid trails if:

(1) the nonresident youth has in possession evidence of completing an all-terrain safety course offered by the ATV Safety Institute or another state as provided in section 84.925, subdivision 3; and

(2) the nonresident youth is accompanied by a person 18 years of age or older who holds a valid driver's license.

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

Sec. 22. Minnesota Statutes 2009 Supplement, section 84.9275, subdivision 1, is amended to read:

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; or

(3) a nonresident operating an all-terrain vehicle that is registered according to section 84.922.

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

Sec. 23. Minnesota Statutes 2009 Supplement, section 84.928, subdivision 1, is amended to read:

Subdivision 1. **Operation on roads and rights-of-way.** (a) Unless otherwise allowed in sections 84.92 to 84.928, a person shall not operate an all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway.

(b) A person may operate a class 1 all-terrain vehicle in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph (d) or (f).

(c) A person may operate a class 2 all-terrain vehicle within the public road right-of-way of a county state-aid or county highway on the extreme right-hand side of the road and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions, unless prohibited under paragraph (d) or (f). A person may operate a class 2 all-terrain vehicle on the bank or ditch of a public road right-of-way on a designated class 2 all-terrain vehicle trail.

(d) A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of all-terrain vehicles in the public road right-of-way under its jurisdiction.

(e) The restrictions in paragraphs (a), (d), (h), (i), and (j) do not apply to the operation of an all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway;

(1) that is part of a funded grant-in-aid trail; or

(2) when the all-terrain vehicle is:

~~(4)~~ owned by or operated under contract with a publicly or privately owned utility or pipeline company; and

~~(2)~~ used for work on utilities or pipelines.

(f) The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

(1) degradation of vegetation on adjacent public property;

(2) siltation of waters of the state;

(3) impairment or enhancement to the act of taking game; or

(4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

(g) A person may operate an all-terrain vehicle registered for private use and used for agricultural purposes on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

(h) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

(i) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(j) A person shall not operate an all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

Sec. 24. Minnesota Statutes 2008, section 84.928, subdivision 5, is amended to read:

Subd. 5. **Organized contests, use of highways and public lands and waters.** (a) Nothing in this section or chapter 169 prohibits the use of all-terrain vehicles within the right-of-way of a state trunk or county state-aid highway or upon public lands or waters under the jurisdiction of the commissioner of natural resources, in an organized contest or event, subject to the consent of the official or board having jurisdiction over the highway or public lands or waters.

(b) In permitting the contest or event, the official or board having jurisdiction may prescribe restrictions or conditions as they may deem advisable.

(c) Notwithstanding section 84.9256, subdivision 1, paragraph (b), a person under 12 years of age may operate an all-terrain vehicle in an organized contest on public lands or waters, if the all-terrain vehicle has an engine capacity of 90cc or less, the person complies with section 84.9256, subdivision 1, paragraph (h), and the person is supervised by a person 18 years of age or older.

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

Sec. 25. Minnesota Statutes 2008, section 84D.10, is amended by adding a subdivision to read:

Subd. 4. **Persons leaving public waters.** A person leaving waters of the state must drain bait containers, other boating-related equipment holding water excluding marine sanitary systems, and live wells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads. Drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting watercraft on a public road. Marine sanitary systems are excluded from this requirement.

Sec. 26. Minnesota Statutes 2008, section 84D.13, subdivision 5, is amended to read:

Subd. 5. **Civil penalties.** A civil citation issued under this section must impose the following penalty amounts:

(1) for transporting aquatic macrophytes on a forest road as defined by section 89.001, subdivision 14, road or highway as defined by section 160.02, subdivision 26, or any other public road, \$50;

(2) for placing or attempting to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting equipment that has aquatic macrophytes attached, \$100;

(3) for unlawfully possessing or transporting a prohibited invasive species other than an aquatic macrophyte, \$250;

(4) for placing or attempting to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting equipment that has prohibited invasive species attached when the waters are not designated by the commissioner as being infested with that invasive species, \$500 for the first offense and \$1,000 for each subsequent offense;

(5) for intentionally damaging, moving, removing, or sinking a buoy marking, as prescribed by rule, Eurasian water milfoil, \$100;

(6) for failing to drain water, ~~as required by rule,~~ from watercraft and equipment before leaving ~~designated zebra mussel, spiny water flea, or other invasive plankton infested~~ waters of the state, \$50; and

(7) for transporting infested water off riparian property without a permit as required by rule, \$200.

Sec. 27. Minnesota Statutes 2009 Supplement, section 85.015, subdivision 13, is amended to read:

Subd. 13. **Arrowhead Region Trails, in Cook, Lake, St. Louis, Pine, Carlton, Koochiching, and Itasca Counties.** (a)(1) The Taconite Trail shall originate at Ely in St. Louis County and extend southwesterly to Tower in St. Louis County, thence westerly to McCarthy Beach State Park in St. Louis County, thence southwesterly to Grand Rapids in Itasca County and there terminate;

(2) The C. J. Ramstad/Northshore Trail shall originate in Duluth in St. Louis County and extend northeasterly to Two Harbors in Lake County, thence northeasterly to Grand Marais in Cook County, thence northeasterly to the international boundary in the vicinity of the north shore of Lake Superior, and there terminate;

(3) The Grand Marais to International Falls Trail shall originate in Grand Marais in Cook County and extend northwesterly, outside of the Boundary Waters Canoe Area, to Ely in St. Louis County, thence southwesterly along the route of the Taconite Trail to Tower in St. Louis County, thence northwesterly through the Pelican Lake area in St. Louis County to International Falls in Koochiching County, and there terminate;

(4) The Minnesota-Wisconsin Boundary Trail shall originate in Duluth in St. Louis County and extend southerly to St. Croix State Forest in Pine County.

(b) The trails shall be developed primarily for riding and hiking.

(c) In addition to the authority granted in subdivision 1, lands and interests in lands for the Arrowhead Region trails may be acquired by eminent domain. Before acquiring any land or interest in land by eminent domain the commissioner of administration shall obtain the approval of the governor. The governor shall consult with the Legislative Advisory Commission before granting approval. Recommendations of the Legislative Advisory Commission shall be advisory only. Failure or refusal of the commission to make a recommendation shall be deemed a negative recommendation.

Sec. 28. Minnesota Statutes 2008, section 85.015, subdivision 14, is amended to read:

Subd. 14. **Willard Munger Trail System, Chisago, Ramsey, Pine, St. Louis, Carlton, and Washington Counties.** (a) The trail shall consist of six segments. One segment shall be known as the Gateway Trail and shall originate at the State Capitol and extend northerly and northeasterly to William O'Brien State Park, thence northerly

to Taylors Falls in Chisago County. One segment shall ~~be known as the Boundary Trail and shall~~ originate in Chisago County and extend into ~~Duluth in St. Louis~~ Hinckley and Pine County. One segment shall be known as the Browns Creek Trail and shall originate at Duluth Junction and extend into Stillwater in Washington County. One segment shall be known as the Munger Trail and shall originate at Hinckley in Pine County and extend through Moose Lake in Carlton County to Duluth in St. Louis County. One segment shall be known as the Alex Laveau Trail and shall originate in Carlton County at Carlton and extend through Wrenshall to the Minnesota-Wisconsin border. One segment shall be established that extends the trail to include the cities of Proctor, Duluth, and Hermantown in St. Louis County.

(b) The Gateway and Browns Creek Trails shall be developed primarily for hiking and nonmotorized riding and the remaining trails shall be developed primarily for riding and hiking.

(c) In addition to the authority granted in subdivision 1, lands and interests in lands for the Gateway and Browns Creek Trails may be acquired by eminent domain.

Sec. 29. Minnesota Statutes 2008, section 85.052, subdivision 4, is amended to read:

Subd. 4. **Deposit of fees.** (a) Fees paid for providing contracted products and services within a state park, state recreation area, or wayside, and for special state park uses under this section shall be deposited in the natural resources fund and credited to a state parks account.

(b) Gross receipts derived from sales, rentals, or leases of natural resources within state parks, recreation areas, and waysides, other than those on trust fund lands, must be deposited in the state treasury and credited to the ~~general fund~~ state parks working capital account.

(c) Notwithstanding paragraph (b), the gross receipts from the sale of stockpile materials, aggregate, or other earth materials from the Iron Range Off-Highway Vehicle Recreation Area shall be deposited in the dedicated accounts in the natural resources fund from which the purchase of the stockpile material was made.

Sec. 30. Minnesota Statutes 2009 Supplement, 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 to any veteran with a total and permanent service-connected disability, and a daily park permit to any resident veteran with any level of service-connected disability, as determined by the United States Department of Veterans Affairs, who presents each year a copy of ~~their~~ the veteran's determination letter to a park attendant or commissioner's designee. For the purposes of this section, "veteran" has the meaning given in section 197.447.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 31. Minnesota Statutes 2008, section 85.22, subdivision 5, is amended to read:

Subd. 5. **Exemption.** Purchases for resale or rental made from the state parks working capital ~~fund~~ account are exempt from competitive bidding, notwithstanding chapter 16C.

Sec. 32. Minnesota Statutes 2008, section 85.32, subdivision 1, is amended to read:

Subdivision 1. **Areas marked.** The commissioner of natural resources is authorized in cooperation with local units of government and private individuals and groups when feasible to mark ~~canoe and boating routes~~ state water trails on the Little Fork, Big Fork, Minnesota, St. Croix, Snake, Mississippi, Red Lake, Cannon, Straight, Des Moines, Crow Wing, St. Louis, Pine, Rum, Kettle, Cloquet, Root, Zumbro, Pomme de Terre within Swift County,

Watonwan, Cottonwood, Whitewater, Chippewa from Benson in Swift County to Montevideo in Chippewa County, Long Prairie, Red River of the North, Sauk, Otter Tail, Redwood, Blue Earth, and Crow Rivers which have historic and scenic values and to mark appropriately points of interest, portages, camp sites, and all dams, rapids, waterfalls, whirlpools, and other serious hazards which are dangerous to canoe, kayak, and watercraft travelers.

Sec. 33. Minnesota Statutes 2008, section 85.41, subdivision 3, is amended to read:

Subd. 3. **Exemptions.** (a) Participants in cross-country ski races and official school activities and residents of a state or local government operated correctional facility are exempt from the pass requirement in subdivision 1 if a special use permit has been obtained by the organizers of the event or those in an official capacity in advance from the agency with jurisdiction over the cross-country ski trail. Permits shall require that permit holders return the trail and any associated facility to its original condition if any damage is done by the permittee. Limited permits for special events may be issued and shall require the removal of any trail markers, banners, and other material used in connection with the special event.

(b) Unless otherwise exempted under paragraph (a), students, teachers, and supervising adults engaged in school-sanctioned activities or other youth activities sponsored by a nonprofit organization are exempt from the pass requirements in subdivision 1.

Sec. 34. Minnesota Statutes 2008, section 85.42, is amended to read:

85.42 USER FEE; VALIDITY.

(a) The fee for an annual cross-country ski pass is ~~\$14~~ \$19 for an individual age 16 and over. The fee for a three-year pass is ~~\$39~~ \$54 for an individual age 16 and over. This fee shall be collected at the time the pass is purchased. Three-year passes are valid for three years beginning the previous July 1. Annual passes are valid for one year beginning the previous July 1.

(b) The cost for a daily cross-country skier pass is ~~\$4~~ \$5 for an individual age 16 and over. This 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) A pass must be signed by the skier across the front of the pass to be valid and becomes nontransferable on signing.

Sec. 35. Minnesota Statutes 2008, section 85.43, is amended to read:

85.43 DISPOSITION OF RECEIPTS; PURPOSE.

(a) Fees from cross-country ski passes shall be deposited in the state treasury and credited to a cross-country ski account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, are appropriated to the commissioner of natural resources for the following purposes:

(1) grants-in-aid for cross-country ski trails sponsored by local units of government to:

(i) counties and municipalities for construction and maintenance of cross-country ski trails; and

(ii) special park districts as provided in section 85.44 for construction and maintenance of cross-country ski trails; and

(2) administration of the cross-country ski trail grant-in-aid program.

(b) Development and maintenance of state cross-country ski trails are eligible for funding from the cross-country ski account if the money is appropriated by law.

Sec. 36. Minnesota Statutes 2008, section 85.46, as amended by Laws 2009, chapter 37, article 1, sections 22 to 24, is amended to read:

85.46 HORSE ~~TRAIL~~ PASS.

Subdivision 1. **Pass in possession.** (a) Except as provided in paragraph (b), while riding, leading, or driving a horse on horse trails and associated day use areas on state trails, in state parks, in state recreation areas, and in state forests, a person 16 years of age or over shall carry in immediate possession a valid horse ~~trail~~ pass. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835.

(b) A valid horse ~~trail~~ pass is not required under this section for a person riding, leading, or driving a horse ~~only on the portion of a horse-trail property~~ that is owned by the person or the person's spouse, child, parent, or guardian.

Subd. 2. **License agents.** (a) The commissioner of natural resources may appoint agents to issue and sell horse ~~trail~~ passes. The commissioner may revoke the appointment of an agent at any time.

(b) 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 the accounting and handling of passes according to section 97A.485, subdivision 11.

(c) An agent must promptly deposit and remit all money received from the sale of passes, except issuing fees, to the commissioner.

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.

Subd. 4. **Pass fees.** (a) The fee for an annual horse ~~trail~~ pass is \$20 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. Annual passes are valid for one year beginning January 1 and ending December 31.

(b) The fee for a daily horse ~~trail~~ pass is \$4 for an individual 16 years of age and over. The fee shall be collected at the time the pass is purchased. The daily pass is valid only for the date designated on the pass form.

(c) The fee for a commercial annual horse ~~trail~~ pass is \$200 and includes issuance of 15 passes. Additional or individual commercial annual horse ~~trail~~ passes may be purchased by the commercial ~~trail~~ riding facility owner at a fee of \$20 each. Commercial annual horse ~~trail~~ passes are valid for one year beginning January 1 and ending December 31 and may be affixed to the horse tack, saddle, or person. Commercial annual horse ~~trail~~ passes are not transferable to another commercial ~~trail~~ riding facility. For the purposes of this section, a "commercial ~~trail~~ riding facility" is an operation where horses are used for riding instruction or other equestrian activities for hire or use by others.

Subd. 5. **Issuing fee.** In addition to the fee for a horse ~~trail~~ pass, an issuing fee of \$1 per pass shall be charged. The issuing fee shall be retained by the seller of the pass. Issuing fees for passes sold by the commissioner of natural resources shall be deposited in the state treasury and credited to the horse ~~trail~~ pass account in the natural resources fund and are appropriated to the commissioner for the operation of the electronic licensing system. A pass shall indicate the amount of the fee that is retained by the seller.

Subd. 6. **Disposition of receipts.** Fees collected under this section, except for the issuing fee, shall be deposited in the state treasury and credited to the horse ~~trail~~ pass account in the natural resources fund. Except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, the fees are appropriated to the commissioner of natural resources for trail acquisition, trail and facility development, and maintenance, enforcement, and rehabilitation of horse trails or trails authorized for horse use, whether for riding, leading, or driving, ~~on state trails and in state parks, state recreation areas, and state forests~~ land administered by the commissioner.

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.

Sec. 37. Minnesota Statutes 2009 Supplement, section 86A.09, subdivision 1, is amended to read:

Subdivision 1. **Master plan required.** No construction of new facilities or other development of an authorized unit, other than repairs and maintenance, shall commence until the managing agency has prepared and submitted to the commissioner of natural resources and the commissioner has reviewed, pursuant to this section, a master plan for administration of the unit in conformity with this section. No master plan is required for wildlife management areas that do not have resident managers, for scientific and natural areas, for water access sites, for aquatic management areas, for rest areas, or for boater waysides.

Sec. 38. Minnesota Statutes 2008, section 86B.301, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** A watercraft license is not required for:

(1) a watercraft that is covered by a license or number in full force and effect under federal law or a federally approved licensing or numbering system of another state, and has not been within this state for more than 90 consecutive days, which does not include days that a watercraft is laid up at dock over winter or for repairs at a Lake Superior port or another port in the state;

(2) a watercraft from a country other than the United States that has not been within this state for more than 90 consecutive days, which does not include days that a watercraft is laid up at dock over winter or for repairs at a Lake Superior port or another port in the state;

(3) a watercraft owned by the United States, an Indian tribal government, a state, or a political subdivision of a state, except watercraft used for recreational purposes;

(4) a ship's lifeboat;

(5) a watercraft that has been issued a valid marine document by the United States government;

(6) a duck boat during duck hunting season;

(7) a rice boat during the harvest season;

(8) a seaplane; and

(9) a nonmotorized watercraft nine feet in length or less.

EFFECTIVE DATE. This section is effective upon the state receiving written approval from the United States Coast Guard, as provided in United States Code, title 46, section 12303, and Code of Federal Regulations, title 33, section 174.7.

Sec. 39. Minnesota Statutes 2008, section 88.17, subdivision 1, is amended to read:

Subdivision 1. **Permit Permission required.** (a) ~~A permit Permission~~ to start a fire to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations may be given by the commissioner or the commissioner's agent. This permission shall be in the form of:

- (1) a written permit issued by a forest officer, fire warden, or other person authorized by the commissioner; ~~or~~
- (2) an electronic permit issued by the commissioner, an agent authorized by the commissioner, or an Internet site authorized by the commissioner; or
- (3) a general permit adopted by the county board of commissioners according to paragraph (c).

(b) Written and electronic burning permits shall set the time and conditions by which the fire may be started and burned. The permit shall also specifically list the materials that may be burned. The permittee must have the permit on their person and shall produce the permit for inspection when requested to do so by a forest officer, conservation officer, or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire. A person shall not start or cause a fire to be started on any land that is not owned or under their legal control without the written permission of the owner, lessee, or an agent of the owner or lessee of the land. Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be cause for the permit to be revoked.

(c) A general burning permit may be adopted by the county board of commissioners in counties that are determined by the commissioner either to not be wildfire areas as defined in section 88.01, subdivision 6, or to otherwise have low potential for damage to life and property from wildfire. The commissioner shall consider the history of and potential for wildfire; the distribution of trees, brush, grasslands, and other vegetative material; and the distribution of property subject to damage from escaped fires. Upon a determination by the commissioner and adoption by a vote of the county board, permission for open burning is extended to all residents in the county without the need for individual written or electronic permits, provided burning conforms to all other provisions of this chapter, including those related to responsibility to control and extinguish fires, no burning of prohibited materials, and liability for damages caused by violations of this chapter.

(d) Upon adoption of a general burning permit, a county must establish specific regulations by ordinance, to include at a minimum the time when and conditions under which fires may be started and burned. No ordinance may be less restrictive than state law.

(e) At any time when the commissioner or the county board determines that a general burning permit is no longer in the public interest, the general permit may be canceled by mutual agreement of the commissioner and the county board.

Sec. 40. Minnesota Statutes 2008, section 88.17, subdivision 3, is amended to read:

Subd. 3. **Special permits.** The following special permits are required at all times, including when the ground is snow-covered:

(a) **Fire training.** A permit to start a fire for the instruction and training of firefighters, including liquid fuels training, may be given by the commissioner or agent of the commissioner. Except for owners or operators conducting fire training in specialized industrial settings pursuant to applicable federal, state, or local standards,

owners or operators conducting open burning for the purpose of instruction and training of firefighters with regard to structures must follow the techniques described in a document entitled: Structural Burn Training Procedures for the Minnesota Technical College System.

(b) **Permanent tree and brush open burning sites.** A permit for the operation of a permanent tree and brush burning site may be given by the commissioner or agent of the commissioner. Applicants for a permanent open burning site permit shall submit a complete application on a form provided by the commissioner. Existing permanent tree and brush open burning sites must submit for a permit within 90 days of the passage of this statute for a burning permit. New site applications must be submitted at least 90 days before the date of the proposed operation of the permanent open burning site. The application must be submitted to the commissioner and must contain:

(1) the name, address, and telephone number of all owners of the site proposed for use as the permanent open burning site;

(2) if the operator for the proposed permanent open burning site is different from the owner, the name, address, and telephone number of the operator;

(3) a general description of the materials to be burned, including the source and estimated quantity, dimensions of the site and burn pile areas, hours and dates of operation, and provisions for smoke management; and

(4) a topographic or similarly detailed map of the site and surrounding area within a one mile circumference showing all structures that might be affected by the operation of the site.

Only trees, tree trimmings, or brush that cannot be disposed of by an alternative method such as chipping, composting, or other method shall be permitted to be burned at a permanent open burning site. A permanent tree and brush open burning site must be located and operated so as not to create a nuisance or endanger water quality. The commissioner shall revoke the permit or order actions to mitigate threats to public health, safety, and the environment in the event that permit conditions are violated.

Sec. 41. Minnesota Statutes 2008, section 88.79, subdivision 2, is amended to read:

Subd. 2. **Charge for service; receipts to special revenue fund.** Notwithstanding section 16A.1283, the commissioner of natural resources may charge the owner, by written order published in the State Register, establish fees the commissioner determines to be fair and reasonable that are charged to owners receiving such services such sums as the commissioner shall determine to be fair and reasonable under subdivision 1. The charges must account for differences in the value of timber and other benefits. The receipts from such services shall be credited to the special revenue fund and are annually appropriated to the commissioner for the purposes specified in subdivision 1.

Sec. 42. Minnesota Statutes 2008, section 89.17, is amended to read:

89.17 LEASES AND PERMITS.

Notwithstanding the permit procedures of chapter 90, the commissioner shall have power to grant and execute, in the name of the state, leases and permits for the use of any forest lands under the authority of the commissioner for any purpose which in the commissioner's opinion is not inconsistent with the maintenance and management of the forest lands, on forestry principles for timber production. Every such lease or permit shall be revocable at the discretion of the commissioner at any time subject to such conditions as may be agreed on in the lease. The approval of the commissioner of administration shall not be required upon any such lease or permit. No such lease or permit for a period exceeding ~~ten~~ 50 years shall be granted except with the approval of the Executive Council.

~~Hunting of wild game is prohibited on any land which has been posted by the lessee to prohibit hunting. Such prohibition shall apply to all persons including the lessee. Public access to the leased land for outdoor recreation shall be the same as access would be under state management.~~

Sec. 43. Minnesota Statutes 2008, section 90.041, is amended by adding a subdivision to read:

Subd. 9. **Reoffering unsold timber.** To maintain and enhance forest ecosystems on state forest lands, the commissioner may reoffer timber tracts remaining unsold under the provisions of section 90.101 below appraised value at public auction with the required 30-day notice under section 90.101, subdivision 2.

Sec. 44. Minnesota Statutes 2008, section 90.121, is amended to read:

90.121 INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF 3,000 CORDS.

(a) The commissioner may sell the timber on any tract of state land in lots not exceeding 3,000 cords in volume, in the same manner as timber sold at public auction under section 90.101, and related laws, subject to the following special exceptions and limitations:

(1) the commissioner shall offer all tracts authorized for sale by this section separately from the sale of tracts of state timber made pursuant to section 90.101;

(2) no bidder may be awarded more than 25 percent of the total tracts offered at the first round of bidding unless fewer than four tracts are offered, in which case not more than one tract shall be awarded to one bidder. Any tract not sold at public auction may be offered for private sale as authorized by section 90.101, subdivision 1, to persons eligible under this section at the appraised value; and

(3) no sale may be made to a person having more than ~~20~~ 30 employees. For the purposes of this clause, "employee" means an individual working in the timber or wood products industry for salary or wages on a full-time or part-time basis.

(b) The auction sale procedure set forth in this section constitutes an additional alternative timber sale procedure available to the commissioner and is not intended to replace other authority possessed by the commissioner to sell timber in lots of 3,000 cords or less.

(c) Another bidder or the commissioner may request that the number of employees a bidder has pursuant to paragraph (a), clause (3), be confirmed if there is evidence that the bidder may be ineligible due to exceeding the employee threshold. The commissioner shall request information from the commissioners of labor and industry and employment and economic development including the premiums paid by the bidder in question for workers' compensation insurance coverage for all employees of the bidder. The commissioner shall review the information submitted by the commissioners of labor and industry and employment and economic development and make a determination based on that information as to whether the bidder is eligible. A bidder is considered eligible and may participate in intermediate auctions until determined ineligible under this paragraph.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2006.

Sec. 45. Minnesota Statutes 2008, section 90.14, is amended to read:

90.14 AUCTION SALE PROCEDURE.

(a) All state timber shall be offered and sold by the same unit of measurement as it was appraised. No tract shall be sold to any person other than the purchaser in whose name the bid was made. The commissioner may refuse to approve any and all bids received and cancel a sale of state timber for good and sufficient reasons.

(b) The purchaser at any sale of timber shall, immediately upon the approval of the bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under section 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent of the appraised value. In case any purchaser fails to make such payment, the purchaser shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor had been made.

(c) In lieu of the scaling of state timber required by this chapter, a purchaser of state timber may, at the time of payment by the purchaser to the commissioner of 15 percent of the appraised value, elect in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described in the permit, provided that the commissioner has expressly designated the availability of such option for that tract on the list of tracts available for sale as required under section 90.101. A purchaser who elects in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described on the permit does not have recourse to the provisions of section 90.281.

(d) In the case of a public auction sale conducted by a sealed bid process, tracts shall be awarded to the high bidder, who shall pay to the commissioner a down payment of 15 percent of the appraised value ~~within ten business days of receiving a written award notice that must be received or postmarked within 14 days of the date of the sealed bid opening.~~ If a purchaser fails to make the down payment, the purchaser is liable for the down payment to the state and the commissioner may offer the timber for sale to the next highest bidder as though no higher bid had been made.

(e) Except as otherwise provided by law, at the time the purchaser signs a permit issued under section 90.151, the commissioner shall require the purchaser shall to make a bid guarantee payment to the commissioner in an amount equal to 15 percent of the total purchase price of the permit less the down payment amount required by paragraph (b) for any bid increase in excess of \$5,000 of the appraised value. ~~If the a required bid guarantee~~ payment is not submitted with the signed permit, no harvesting may occur, the permit cancels, and the down payment for timber forfeits to the state. The bid guarantee payment forfeits to the state if the purchaser and successors in interest fail to execute an effective permit.

Sec. 46. **[97A.072] PEACE OFFICER TRAINING ACCOUNT.**

Subdivision 1. Account established; sources. The peace officer training account is created in the game and fish fund in the state treasury. Revenue from the portion of the surcharges assessed to criminal and traffic offenders in section 357.021, subdivision 7, clause (1), shall be deposited in the account and is appropriated to the commissioner. Money in the account may be spent only for the purposes provided in subdivision 2.

Subd. 2. Purposes of account. Money in the peace officer training account may only be spent by the commissioner for peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863 to enforce game and fish laws.

Sec. 47. Minnesota Statutes 2008, section 103A.305, is amended to read:

103A.305 JURISDICTION.

Sections 103A.301 to 103A.341 apply if the decision of an agency in a proceeding involves a question of water policy in one or more of the areas of water conservation, water pollution, preservation and management of wildlife, drainage, soil conservation, public recreation, forest management, and municipal planning under section 97A.135; 103A.411; 103E.011; 103E.015; 103G.245; 103G.261; 103G.271; 103G.275; 103G.281; ~~103G.295, subdivisions 1 and 2;~~ 103G.287; 103G.297 to 103G.311; 103G.315, subdivisions 1, 10, 11, and 12; 103G.401; 103G.405; 103I.681, subdivision 1; 115.04; or 115.05.

Sec. 48. Minnesota Statutes 2008, section 103F.325, is amended by adding a subdivision to read:

Subd. 6. **District boundary adjustments.** (a) Notwithstanding subdivision 1, the commissioner may, by written order, amend the boundary of the designated area according to this subdivision. At least 30 days prior to issuing the order, the commissioner must give notice of the proposed boundary amendment to the local governmental unit and property owners in the designated area directly affected by the amendment and publish notice in an official newspaper of general circulation in the county. The commissioner must consider comments received on the proposed boundary amendment and must make findings and issue a written order. The findings must address the consistency of the proposed amendment with the values for which the river was included in the system, and potential impacts to the scenic, recreational, natural, historical, and scientific values of the land and water within the designated area.

(b) The commissioner's order is effective 30 days after issuing the order. Before the effective date, a local unit of government with jurisdiction in the affected area may contest the order under chapter 14.

(c) Boundary amendments under this subdivision remain subject to the acreage limitations in this section.

Sec. 49. Minnesota Statutes 2008, section 103F.335, subdivision 1, is amended to read:

Subdivision 1. **Compliance of ordinances with system.** (a) Within six months after establishment of a wild, scenic, or recreational river system, or within six months after revision of the management plan, each local governmental unit with jurisdiction over a portion of the system shall adopt or amend its ordinances and land use district maps to the extent necessary to substantially comply with the standards and criteria of the commissioner and the management plan.

(b) If a local government fails to adopt ~~adequate~~ substantially compliant ordinances, maps, or amendments within six months, the commissioner shall adopt the ordinances, maps, or amendments in the manner and with the effect specified in section 103F.215.

(c) The commissioner shall assist local governments in the preparation, implementation, and enforcement of the ordinances.

Sec. 50. Minnesota Statutes 2009 Supplement, section 103G.201, is amended to read:

103G.201 PUBLIC WATERS INVENTORY.

(a) The commissioner shall maintain a public waters inventory map of each county that shows the waters of this state that are designated as public waters under the public waters inventory and classification procedures prescribed under Laws 1979, chapter 199, and shall provide access to a copy of the maps ~~and lists~~. As county public waters inventory maps ~~and lists~~ are revised according to this section, the commissioner shall send a notification or a copy of the maps ~~and lists~~ to the auditor of each affected county.

(b) The commissioner is authorized to revise the ~~list~~ map of public waters established under Laws 1979, chapter 199, to reclassify those types 3, 4, and 5 wetlands previously identified as public waters wetlands under Laws 1979, chapter 199, as public waters or as wetlands under section 103G.005, subdivision 19. The commissioner may only reclassify public waters wetlands as public waters if:

(1) they are assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221;

(2) they are classified as lacustrine wetlands or deepwater habitats according to Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et al., 1979 edition); or

(3) the state or federal government has become titleholder to any of the beds or shores of the public waters wetlands, subsequent to the preparation of the public waters inventory map filed with the auditor of the county, pursuant to paragraph (a), and the responsible state or federal agency declares that the water is necessary for the purposes of the public ownership.

(c) The commissioner must provide notice of the reclassification to the local government unit, the county board, the watershed district, if one exists for the area, and the soil and water conservation district. Within 60 days of receiving notice from the commissioner, a party required to receive the notice may provide a resolution stating objections to the reclassification. If the commissioner receives an objection from a party required to receive the notice, the reclassification is not effective. If the commissioner does not receive an objection from a party required to receive the notice, the reclassification of a wetland under paragraph (b) is effective 60 days after the notice is received by all of the parties.

(d) The commissioner shall give priority to the reclassification of public waters wetlands that are or have the potential to be affected by public works projects.

(e) The commissioner may revise the public waters inventory map ~~and list~~ of each county:

(1) to reflect the changes authorized in paragraph (b); and

(2) as needed, to:

(i) correct errors in the original inventory;

(ii) add or subtract trout stream tributaries within sections that contain a designated trout stream following written notice to the landowner;

(iii) add depleted quarries, and sand and gravel pits, when the body of water exceeds 50 acres and the shoreland has been zoned for residential development; and

(iv) add or subtract public waters that have been created or eliminated as a requirement of a permit authorized by the commissioner under section 103G.245.

Sec. 51. Minnesota Statutes 2008, section 103G.271, subdivision 3, is amended to read:

Subd. 3. **Permit restriction during summer months.** The commissioner must not modify or restrict the amount of appropriation from a groundwater source authorized in a water use permit issued to irrigate agricultural land ~~under section 103G.295, subdivision 2,~~ between May 1 and October 1, unless the commissioner determines the authorized amount of appropriation endangers a domestic water supply.

Sec. 52. **[103G.282] MONITORING TO EVALUATE IMPACTS FROM APPROPRIATIONS.**

Subdivision 1. **Monitoring equipment.** The commissioner may require the installation and maintenance of monitoring equipment to evaluate water resource impacts from permitted appropriations and proposed projects that require a permit. Monitoring for water resources that supply more than one appropriator must be designed to minimize costs to individual appropriators.

Subd. 2. **Measuring devices required.** Monitoring installations required under subdivision 1 must be equipped with automated measuring devices to measure water levels, flows, or conditions. The commissioner may determine the frequency of measurements and other measuring methods based on the quantity of water appropriated or used, the source of water, potential connections to other water resources, the method of appropriating or using water, seasonal and long-term changes in water levels, and any other facts supplied to the commissioner.

Subd. 3. **Reports and costs.** (a) Records of water measurements under subdivision 2 must be kept for each installation. The measurements must be reported annually to the commissioner on or before February 15 of the following year in a format or on forms prescribed by the commissioner.

(b) The owner or person in charge of an installation for appropriating or using waters of the state or a proposal that requires a permit is responsible for all costs related to establishing and maintaining monitoring installations and to measuring and reporting data. Monitoring costs for water resources that supply more than one appropriator may be distributed among all users within a monitoring area determined by the commissioner and assessed based on volumes of water appropriated and proximity to resources of concern.

Sec. 53. Minnesota Statutes 2008, section 103G.285, subdivision 5, is amended to read:

Subd. 5. **Trout streams.** Permits issued after June 3, 1977, to appropriate water from streams designated trout streams by the commissioner's orders under section ~~97C.021~~ 97C.005 must be limited to temporary appropriations.

Sec. 54. **[103G.287] GROUNDWATER APPROPRIATIONS.**

Subdivision 1. **Applications for groundwater appropriations.** (a) Groundwater use permit applications are not complete until the applicant has supplied:

(1) a water well record as required by section 103I.205, subdivision 9, information on the subsurface geologic formations penetrated by the well and the formation or aquifer that will serve as the water source, and geologic information from test holes drilled to locate the site of the production well;

(2) the maximum daily, seasonal, and annual pumpage rates and volumes being requested;

(3) information on groundwater quality in terms of the measures of quality commonly specified for the proposed water use and details on water treatment necessary for the proposed use;

(4) an inventory of existing wells within 1-1/2 miles of the proposed production well or within the area of influence, as determined by the commissioner. The inventory must include information on well locations, depths, geologic formations, depth of the pump or intake, pumping and nonpumping water levels, and details of well construction; and

(5) the results of an aquifer test completed according to specifications approved by the commissioner. The test must be conducted at the maximum pumping rate requested in the application and for a length of time adequate to assess or predict impacts to other wells and surface water and groundwater resources. The permit applicant is responsible for all costs related to the aquifer test, including the construction of groundwater and surface water monitoring installations, and water level readings before, during, and after the aquifer test.

(b) The commissioner may waive an application requirement in this subdivision if the information provided with the application is adequate to determine whether the proposed appropriation and use of water is sustainable and will protect ecosystems, water quality, and the ability of future generations to meet their own needs.

Subd. 2. **Relationship to surface water resources.** Groundwater appropriations that have potential impacts to surface waters are subject to applicable provisions in section 103G.285.

Subd. 3. **Protection of groundwater supplies.** The commissioner may establish water appropriation limits to protect groundwater resources. When establishing water appropriation limits to protect groundwater resources, the commissioner must consider the sustainability of the groundwater resource, including the current and projected water levels, water quality, whether the use protects ecosystems, and the ability of future generations to meet their own needs.

Subd. 4. **Groundwater management areas.** The commissioner may designate groundwater management areas and limit total annual water appropriations and uses within a designated area to ensure sustainable use of groundwater that protects ecosystems, water quality, and the ability of future generations to meet their own needs. Water appropriations and uses within a designated management area must be consistent with a plan approved by the commissioner that addresses water conservation requirements and water allocation priorities established in section 103G.261.

Subd. 5. **Interference with other wells.** The commissioner may issue water use permits for appropriation from groundwater only if the commissioner determines that the groundwater use is sustainable to supply the needs of future generations and the proposed use will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply and private domestic wells constructed according to Minnesota Rules, chapter 4725.

Sec. 55. Minnesota Statutes 2008, section 103G.301, subdivision 6, is amended to read:

Subd. 6. **Filing application.** ~~(a)~~ An application for a permit must be filed with the commissioner and if the proposed activity for which the permit is requested is within a municipality, or is within or affects a watershed district or a soil and water conservation district, a copy of the application with maps, plans, and specifications must be served on the mayor of the municipality, the secretary of the board of managers of the watershed district, and the secretary of the board of supervisors of the soil and water conservation district.

~~(b) If the application is required to be served on a local governmental unit under this subdivision, proof of service must be included with the application and filed with the commissioner.~~

Sec. 56. Minnesota Statutes 2008, section 103G.305, subdivision 2, is amended to read:

Subd. 2. **Exception.** The requirements of subdivision 1 do not apply to applications for a water use permit for:

~~(1) appropriations from waters of the state for irrigation, under section 103G.295;~~

~~(2) appropriations for diversion from the basin of origin of more than 2,000,000 gallons per day average in a 30-day period; or~~

~~(3) (2) appropriations with a consumptive use of more than 2,000,000 gallons per day average for a 30-day period.~~

Sec. 57. Minnesota Statutes 2008, section 103G.315, subdivision 11, is amended to read:

Subd. 11. **Limitations on permits.** (a) Except as otherwise expressly provided by law, a permit issued by the commissioner under this chapter is subject to:

(1) cancellation by the commissioner at any time if necessary to protect the public interests;

(2) further conditions on the term of the permit or its cancellation as the commissioner may prescribe and amend and reissue the permit; and

(3) applicable law existing before or after the issuance of the permit.

(b) Permits issued to irrigate agricultural land ~~under section 103G.295, or considered issued,~~ are subject to this subdivision and are subject to cancellation by the commissioner upon the recommendation of the supervisors of the soil and water conservation district where the land to be irrigated is located.

Sec. 58. Minnesota Statutes 2008, section 103G.515, subdivision 5, is amended to read:

Subd. 5. **Removal of hazardous dams.** Notwithstanding any provision of this section or of section 103G.511 relating to cost sharing or apportionment, the commissioner, within the limits of legislative appropriation, may assume or pay the entire cost of removal of a privately or publicly owned dam upon determining removal provides the lowest cost solution and:

(1) that continued existence of the structure presents a significant public safety hazard, or prevents restoration of an important fisheries resource; or

(2) that public or private property is being damaged due to partial failure of the structure, ~~and that an attempt to assess costs of removal against the private or public owner would be of no avail.~~

Sec. 59. **[103G.651] REMOVING SUNKEN LOGS FROM PUBLIC WATERS.**

The commissioner of natural resources must not issue leases to remove sunken logs or issue permits for the removal of sunken logs from public waters.

Sec. 60. Minnesota Statutes 2008, section 115.55, is amended by adding a subdivision to read:

Subd. 13. **Subsurface sewage treatment systems implementation and enforcement task force.** (a) By September 1, 2010, the agency shall appoint a subsurface sewage treatment systems implementation and enforcement task force in collaboration with the Association of Minnesota Counties, Minnesota Association of Realtors, Minnesota Association of County Planning and Zoning Administrators, and the Minnesota Onsite Wastewater Association. The agency shall work in collaboration with the task force to develop effective and timely implementation and enforcement methods in order to rapidly reduce the number of subsurface sewage treatment systems that are an imminent threat to public health or safety and effectively enforce all violations of the subsurface sewage treatment system rules. The agency shall meet at least three times per year with the task force to address implementation and enforcement issues. The meetings shall be scheduled so that they do not interfere with the construction season.

(b) The agency, in collaboration with the task force and in consultation with the attorney general, county attorneys, and county planning and zoning staff, shall develop, periodically update, and provide to counties enforcement protocols and a checklist that county inspectors, field staff, and others may use when inspecting subsurface sewage treatment systems and enforcing subsurface sewage treatment system rules.

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

Sec. 61. Minnesota Statutes 2008, section 116.07, subdivision 4, is amended to read:

Subd. 4. **Rules and standards.** Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to

times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 18C.215. The rules for the disposal of solid waste shall include site-specific criteria to prohibit solid waste disposal based on the area's sensitivity to groundwater contamination, including site-specific testing. The rules shall provide criteria to prohibit locating landfills based on a site's sensitivity to groundwater contamination. Sensitivity to groundwater contamination is based on the predicted minimum time of travel of groundwater contaminants from the solid waste to the compliance boundary. The rules shall prohibit landfills in areas where karst is likely to develop. The rules shall specify testable or otherwise objective thresholds for these criteria. The rules shall also include modifications to financial assurance requirements under subdivision 4h that ensure the state is protected from financial responsibility for future groundwater contamination. The financial assurance and siting modifications to the rules specified in this act do not apply to solid waste facilities initially permitted before January 1, 2011, including future contiguous expansions and noncontiguous expansions within 600 yards of a permitted boundary. The rule modification shall not affect solid waste disposal facilities that accept only construction and demolition debris and incidental nonrecyclable packaging, and facilities that accept only industrial waste that is limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from the manufacture of construction materials. The rule amendment shall not require new siting or financial assurance requirements for permit by rule solid waste disposal facilities. The modifications to the financial assurance rules specified in this act must require that a solid waste disposal facility subject to them maintain financial assurance so long as the facility poses a potential environmental risk to human health, wildlife, or the environment, as determined by the agency following an empirical assessment. Until the rules are modified to include site-specific criteria to prohibit areas from solid waste disposal due to groundwater contamination sensitivity, as required under this section, the agency shall not issue a permit for a new solid waste disposal facility, except for:

- (1) the reissuance of a permit for a land disposal facility operating as of March 1, 2008;
- (2) a permit to expand a land disposal facility operating as of March 1, 2008, beyond its permitted boundaries, including expansion on land that is not contiguous to, but is located within 600 yards of, the land disposal facility's permitted boundaries;
- (3) a permit to modify the type of waste accepted at a land disposal facility operating as of March 1, 2008;
- (4) a permit to locate a disposal facility that accepts only construction debris as defined in section 115A.03, subdivision 7;

(5) a permit to locate a disposal facility that:

(i) accepts boiler ash from an electric energy power plant that has wet scrubbed units or has units that have been converted from wet scrubbed units to dry scrubbed units as those terms are defined in section 216B.68;

(ii) is on land that was owned on May 1, 2008, by the utility operating the electric energy power plant; and

(iii) is located within three miles of the existing ash disposal facility for the power plant; or

(6) a permit to locate a new solid waste disposal facility for ferrous metallic minerals regulated under Minnesota Rules, chapter 6130, or for nonferrous metallic minerals regulated under Minnesota Rules, chapter 6132.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the Pollution Control Agency.

Pursuant to chapter 14, the Pollution Control Agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and the location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. In implementing its hazardous waste rules, the Pollution Control Agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long-term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The Pollution Control Agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

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

Sec. 62. Minnesota Statutes 2008, section 116.07, subdivision 4h, is amended to read:

Subd. 4h. **Financial responsibility rules.** (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 30 years after closure for a mixed municipal solid waste disposal facility or for a minimum of 20 years after closure, as determined by agency rules, for any other solid waste disposal facility, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

(b) A municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility that was in operation on May 15, 1989, may meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility by pledging its full faith and credit to meet its responsibility.

The pledge must be made in accordance with the requirements in chapter 475 for issuing bonds of the municipality, and the following additional requirements:

(1) The governing body of the municipality shall enact an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for the time period required in paragraph (a) after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs.

(2) The municipality shall require that all collectors that haul to the facility implement a plan for reducing solid waste by using volume-based pricing, recycling incentives, or other means.

(3) When a municipality opts to meet a portion of its financial responsibility by relying on its authority to issue bonds, it shall also begin setting aside in a dedicated long-term care trust fund money that will cover a portion of the potential contingency action costs at the facility, the amount to be determined by the agency for each facility based on at least the amount of waste deposited in the disposal facility each year, and the likelihood and potential timing of conditions arising at the facility that will necessitate response action. The agency may not require a municipality to set aside more than five percent of the total cost in a single year.

(4) A municipality shall have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section.

(5) The municipality shall file with the commissioner of revenue its consent to have the amount of its contingency action costs deducted from state aid payments otherwise due the municipality and paid instead to the remediation fund created in section 116.155, if the municipality fails to conduct the contingency action at the facility when ordered by the agency. If the agency notifies the commissioner that the municipality has failed to conduct contingency action when ordered by the agency, the commissioner shall deduct the amounts indicated by the agency from the state aids in accordance with the consent filed with the commissioner.

(6) The municipality shall file with the agency written proof that it has complied with the requirements of paragraph (b).

(c) The method for proving financial responsibility under paragraph (b) may not be applied to a new solid waste disposal facility or to expansion of an existing facility, unless the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities cannot be permitted for a duration of longer than three years.

(d) The commissioner shall consult with the commissioner of management and budget for guidance on the forms of financial assurance that are acceptable for private owners and public owners, and in carrying out a periodic review of the adequacy of financial assurance for solid waste disposal facilities. Financial assurance rules shall allow financial mechanisms to public owners of solid waste disposal facilities that are appropriate to their status as subdivisions of the state.

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

Sec. 63. Minnesota Statutes 2008, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30 day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15 day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15 day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

Sec. 64. Minnesota Statutes 2008, section 116D.04, is amended by adding a subdivision to read:

Subd. 14. **Customized environmental assessment worksheet forms; electronic submission.** (a) The commissioners of natural resources and the Pollution Control Agency and the board shall periodically review mandatory environmental assessment worksheet categories under rules adopted under this section, and other project types that are frequently subject to environmental review, and develop customized environmental assessment worksheet forms for the category or project type. The forms must include specific questions that focus on key environmental issues for the category or project type. In assessing categories and project types and developing forms, the board shall seek the input of governmental units that are frequently responsible for the preparation of a worksheet for the particular category or project type. The commissioners and the board shall also seek input from the general public on the development of customized forms. The commissioners and board shall make the customized forms available online.

(b) The commissioners of natural resources and the Pollution Control Agency shall allow for the electronic submission of environmental assessment worksheets and permits.

Sec. 65. Minnesota Statutes 2008, section 290.431, is amended to read:

290.431 NONGAME WILDLIFE CHECKOFF.

Every individual who files an income tax return or property tax refund claim form may designate on their original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that individual and paid into an account to be established for the management of nongame wildlife. The commissioner of revenue shall, on the income tax return and the property tax refund claim form, notify filers of their right to designate that a portion of their tax or refund shall be paid into the nongame wildlife management account. The sum of the amounts so designated to be paid shall be credited to the nongame wildlife management account for use by the nongame program ~~of the section of wildlife~~ in the Department of Natural Resources. All interest earned on money accrued, gifts to the program, contributions to the program, and reimbursements of expenditures in the nongame wildlife management account shall be credited to the account by the commissioner of management and budget, except that gifts or contributions received directly by the commissioner of natural resources and directed by the contributor for use in specific nongame field projects or geographic areas shall be handled according to section 84.085, subdivision 1. The commissioner of natural resources shall submit a work program for each fiscal year and semiannual progress reports to the Legislative-Citizen Commission on Minnesota Resources in the form determined by the commission. ~~None of the money provided in this section may be expended unless the commission has approved the work program.~~

The state pledges and agrees with all contributors to the nongame wildlife management account to use the funds contributed solely for the management of nongame wildlife projects and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of nongame wildlife. The commissioner may use funds appropriated for nongame wildlife programs for the purpose of developing, preserving, restoring, and maintaining wintering habitat for neotropical migrant birds in Latin America and the Caribbean under agreement or contract with any nonprofit organization dedicated to the construction, maintenance, and repair of such projects that are acceptable to the governmental agency having jurisdiction over the land and water affected by the projects. Under this authority, the commissioner may execute agreements and contracts if the commissioner determines that the use of the funds will benefit neotropical migrant birds that breed in or migrate through the state.

Sec. 66. Minnesota Statutes 2008, section 290.432, is amended to read:

290.432 CORPORATE NONGAME WILDLIFE CHECKOFF.

A corporation that files an income tax return may designate on its original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that corporation and paid into the nongame wildlife management account established by section 290.431 for use by ~~the section of wildlife in~~ the Department of Natural Resources for its nongame wildlife program. The commissioner of revenue shall, on the corporate tax return, notify filers of their right to designate that a portion of their tax return be paid into the nongame wildlife management account for the protection of endangered natural resources. All interest earned on money accrued, gifts to the program, contributions to the program, and reimbursements of expenditures in the nongame wildlife management account shall be credited to the account by the commissioner of management and budget, except that gifts or contributions received directly by the commissioner of natural resources and directed by the contributor for use in specific nongame field projects or geographic areas shall be handled according to section 84.085, subdivision 1. The commissioner of natural resources shall submit a work program for each fiscal year to the Legislative-Citizen Commission on Minnesota Resources in the form determined by the commission. ~~None of the money provided in this section may be spent unless the commission has approved the work program.~~

The state pledges and agrees with all corporate contributors to the nongame wildlife account to use the funds contributed solely for the nongame wildlife program and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of those programs.

Sec. 67. Minnesota Statutes 2009 Supplement, section 357.021, subdivision 7, is amended to read:

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

(1) beginning July 1, 2010, one percent shall be credited to the peace officer training account in the game and fish fund and appropriated to the commissioner of natural resources 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 management and budget 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 management and budget shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$12 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 management and budget. 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.

Sec. 68. **DEPARTMENT OF NATURAL RESOURCES LONG-RANGE BUDGET ANALYSIS.**

(a) The commissioner of natural resources, in consultation with the commissioner of management and budget, shall estimate the total amount of funding available from all sources for each of the following land management categories: wildlife management areas; state forests; scientific and natural areas; aquatic management areas; public water access sites; and prairie bank easements. The commissioner of natural resources shall prepare a ten-year budget analysis of the department's ongoing land management needs, including restoration of each parcel needing restoration. The analysis shall include:

(1) an analysis of the needs of wildlife management areas, including identification of internal systemwide guidelines on the proper frequency for activities such as controlled burns, tree and woody biomass removal, and brushland management;

(2) an analysis of state forest needs, including identification of internal systemwide guidelines on the proper frequency for forest management activities;

(3) an analysis of scientific and natural area needs, including identification of internal systemwide guidelines on the proper frequency for management activities;

(4) an analysis of aquatic management area needs, including identification of internal systemwide guidelines on the proper frequency for management activities; and

(5) an analysis of the needs of the state's public water access sites, including identification of internal systemwide guidelines on the proper frequency for management activities.

(b) The commissioner shall compare the estimate of the total amount of funding available to the department's ongoing management needs to determine:

(1) the amount necessary to manage, restore, and maintain existing wildlife management areas, state forests, scientific and natural areas, aquatic management areas, public water access sites, and prairie bank easements; and

(2) the amount necessary to expand upon the existing wildlife management areas, state forests, scientific and natural areas, aquatic management areas, public water access sites, and prairie bank easement programs, including the feasibility of the department's existing long-range plans, if applicable, for each program.

(c) The commissioner of natural resources shall submit the analysis to the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources finance and cultural and outdoor resources finance by November 15, 2010.

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

Sec. 69. **SCHOOL TRUST LANDS STUDY.**

By July 15, 2010, the commissioner of natural resources shall provide to the chairs of the house of representatives and the senate committees and divisions with primary jurisdiction over natural resources finance and education finance information necessary to evaluate the effectiveness of the commissioner in managing school trust lands to successfully meet the goals contained in Minnesota Statutes, section 127A.31. The information to be provided shall include, but is not limited to:

(1) an accurate description of the school trust lands and their land classification;

(2) policies and procedures in place designed to meet the requirements of the fiduciary responsibility of the commissioner in management of the school trust lands; and

(3) financial information identifying the current revenues from the land classifications and the potential for future maximization of those revenues.

Sec. 70. **COMPENSATION FOR PUBLIC ACCESS TO SCHOOL TRUST LAND.**

By January 15, 2011, the commissioner of natural resources shall provide recommendations to the chairs of the house of representatives and the senate committees and divisions with primary jurisdiction over natural resources finance and education finance on a funding mechanism for compensating the permanent school trust fund for the public use of school trust lands for outdoor recreation.

Sec. 71. **COON RAPIDS DAM COMMISSION.**

Subdivision 1. **Establishment.** (a) The Coon Rapids Dam Commission is established to perform the duties specified in subdivision 2.

(b) The commission consists of 14 voting members and three nonvoting members as follows:

(1) two members of the house of representatives, appointed by the speaker of the house;

(2) one member of the senate appointed by the president of the senate;

(3) the commissioner of natural resources or the commissioner's designee;

(4) the commissioner of energy or the commissioner's designee;

(5) two representatives of Three Rivers Park District, appointed by the Three Rivers Park District Board of Commissioners;

(6) one representative each from the counties of Anoka and Hennepin, appointed by the respective county boards;

(7) one representative each from the cities of Anoka, Brooklyn Park, Champlin, and Coon Rapids, appointed by the respective mayors;

(8) one representative from the Metropolitan Council, appointed by the council chair;

(9) one representative of the Mississippi National River and Recreation Area, appointed by the superintendent of the Mississippi National River and Recreation Area, who shall serve as a nonvoting member;

(10) one representative of the United States Army Corps of Engineers, appointed by the commander of the St. Paul District, United States Army Corps of Engineers, who shall serve as a nonvoting member; and

(11) one representative from the United States Fish and Wildlife Service, appointed by the regional director of the United States Fish and Wildlife Service, who shall serve as a nonvoting member.

(c) The commission shall elect a chair from among its members.

(d) Members of the commission shall serve a term of one year and may be reappointed for any successive number of terms.

(e) The Three Rivers Park District shall provide the commission with office space and staff and administrative services.

(f) Commission members shall serve without compensation.

Subd. 2. **Duties.** The commission shall study options and make recommendations for the future of the Coon Rapids Dam, including its suitable public uses, governance, operation, and maintenance and financing of the dam and its operations. The commission shall consider economic, environmental, ecological, and other pertinent factors. The commission shall, by March 1, 2011, develop and present to the legislature and the governor an analysis and recommendations for the Coon Rapids Dam. The commission shall present its findings to the house of representatives and senate committees and divisions having jurisdiction over natural resources and energy policy.

Subd. 3. **Expiration.** This section expires upon presentation of the commission's analysis and recommendations according to subdivision 2.

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

Sec. 72. **SOLID WASTE FACILITY FINANCIAL ASSURANCE MECHANISMS; INPUT.**

Within six months after the effective date of this section, and before publishing the rules required for groundwater sensitivity and financial assurance in Minnesota Statutes, section 116.07, subdivision 4, the Pollution Control Agency shall consult with experts and interested persons on financial assurance adequacy for solid waste facilities, including, but not limited to, staff from the Department of Natural Resources, Minnesota Management and Budget, local governments, private and public landfill operators, and environmental groups. The commissioner shall seek the input to determine the adequacy of existing financial assurance rules to address environmental risks, the length of time financial assurance is needed based on the threat to human health and the environment, the reliability of financial assurance in covering risks from land disposal of waste in Minnesota and other states, and the role of private insurance.

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

Sec. 73. **SUBSURFACE SEWAGE TREATMENT SYSTEMS ORDINANCE ADOPTION DELAY.**

Notwithstanding Minnesota Statutes, section 115.55, subdivision 2, a county has ten months from the date final rule amendments to the February 4, 2008, subsurface sewage treatment system rules are adopted by the Pollution Control Agency to adopt an ordinance to comply with the rules. A county must continue to enforce its current ordinance until a new ordinance has been adopted.

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

Sec. 74. **HAZARDOUS WASTE INCINERATION FACILITY MORATORIUM.**

Until March 1, 2011, the commissioner of the Pollution Control Agency shall not issue a permit for a hazardous waste incineration facility that accepts hazardous waste for incineration within Minnesota from generators other than the owner and operator of the facility, unless the hazardous wastes accepted are small quantities of hazardous wastes from a public body on an emergency basis at no cost to the public body and if the commissioner approves the acceptance from the public body.

Sec. 75. **APPROPRIATIONS.**

(a) \$60,000 is appropriated in fiscal year 2011 from the water recreation account in the natural resources fund to the commissioner of natural resources to cooperate with local units of government in marking state water trails under Minnesota Statutes, section 85.32; acquiring and developing river accesses and campsites; and removing obstructions that may cause public safety hazards. This is a onetime appropriation and available until spent.

(b) \$250,000 in fiscal year 2011 is appropriated from the game and fish fund to the commissioner of natural resources to maintain and expand the ecological classification system program on state forest lands.

Sec. 76. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall change the term "horse trail pass" to "horse pass" wherever it appears in Minnesota Statutes and Minnesota Rules.

(b) The revisor of statutes shall change the term "canoe and boating routes" or similar term to "water trail routes" or similar term wherever it appears in Minnesota Statutes and Minnesota Rules.

(c) The revisor of statutes shall change the term "Minnesota Conservation Corps" to "Conservation Corps Minnesota" wherever it appears in Minnesota Statutes and Minnesota Rules.

Sec. 77. **REPEALER.**

(a) Minnesota Statutes 2008, sections 90.172; 103G.295; and 103G.650, are repealed.

(b) Minnesota Statutes 2009 Supplement, section 88.795, is repealed."

Delete the title and insert:

"A bill for an act relating to environment and natural resources; modifying certain administrative accounts; modifying electronic transaction provisions; providing for certain registration and licensing exemptions; requiring drainage of watercraft equipment when leaving public waters; creating peace officer training account; modifying off-highway vehicle and snowmobile provisions; modifying state trails and canoe and boating routes; modifying fees and disposition of certain receipts; delaying local ordinance adoption requirements and establishing a task force; modifying certain competitive bidding exemptions; modifying horse trail pass provisions; modifying master plan requirements; expanding eligibility for free state park permit; modifying cross-country ski trail provisions; providing for general burning permits; modifying authority to establish forestry services fees; modifying authority to issue leases and permits; modifying timber sales provisions; eliminating certain pilot projects and reports; modifying the Water Law; modifying utility license provisions; modifying rulemaking authority; providing for certain permitting and review efficiencies; modifying nongame wildlife checkoffs; requiring long-range land management budgeting; requiring studies and reports; creating Coon Rapids Dam Commission; imposing incineration facility moratorium; appropriating money; amending Minnesota Statutes 2008, sections 84.025, subdivision 9; 84.027, subdivision 15; 84.0856; 84.0857; 84.415, by adding a subdivision; 84.777, subdivision 2; 84.788, subdivision 2; 84.798, subdivision 2; 84.82, subdivisions 3, 6, by adding a subdivision; 84.8205, subdivision 1; 84.92, subdivisions 9, 10; 84.922, subdivision 5, by adding a subdivision; 84.925, subdivision 1; 84.9256, subdivision 1; 84.928, subdivision 5; 84D.10, by adding a subdivision; 84D.13, subdivision 5; 85.015, subdivision 14; 85.052, subdivision 4; 85.22, subdivision 5; 85.32, subdivision 1; 85.41, subdivision 3; 85.42; 85.43; 85.46, as amended; 86B.301, subdivision 2; 88.17, subdivisions 1, 3; 88.79, subdivision 2; 89.17; 90.041, by adding a subdivision; 90.121; 90.14; 103A.305; 103F.325, by adding a subdivision; 103F.335, subdivision 1; 103G.271, subdivision 3; 103G.285, subdivision 5; 103G.301, subdivision 6; 103G.305, subdivision 2; 103G.315, subdivision 11; 103G.515, subdivision 5; 115.55, by adding a subdivision; 116.07, subdivisions 4, 4h; 116D.04, subdivision 2a, by adding a subdivision; 290.431; 290.432; Minnesota Statutes 2009 Supplement, sections 84.415, subdivision 6; 84.793, subdivision 1; 84.922, subdivision 1a; 84.9275, subdivision 1; 84.928, subdivision 1; 85.015, subdivision 13; 85.053, subdivision 10; 86A.09, subdivision 1; 103G.201; 357.021, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 97A; 103G; repealing Minnesota Statutes 2008, sections 90.172; 103G.295; 103G.650; Minnesota Statutes 2009 Supplement, section 88.795."

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.

Otremba from the Committee on Agriculture, Rural Economies and Veterans Affairs to which was referred:

House Resolution No. 9, A House resolution designating 2011 as the Year of the County Fair.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 2037 and 2781 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 2752 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Jackson, Zellers, Atkins, Drazkowski, Hilstrom and Hoppe introduced:

H. F. No. 3786, A bill for an act relating to real property transfers; prohibiting private transfer fees; proposing coding for new law in Minnesota Statutes, chapter 513.

The bill was read for the first time and referred to the Committee on Finance.

Jackson introduced:

H. F. No. 3787, A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2008, section 245A.18, subdivision 2.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Morgan introduced:

H. F. No. 3788, A bill for an act relating to taxation; sales and use; providing a construction exemption for an aerospace defense manufacturing facility; amending Minnesota Statutes 2008, section 297A.71, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Beard and Obermueller introduced:

H. F. No. 3789, A bill for an act relating to trade practices; amending termination of sales representatives; amending Minnesota Statutes 2008, section 325E.37, subdivision 6.

The bill was read for the first time and referred to the Committee on Commerce and Labor.

Murphy, M., for the Cultural and Outdoor Resources Finance Division; Davids; Morgan; Howes; Brown; Hansen; Wagenius; Loeffler; Haws; Lillie; Hausman; Kahn; Carlson and Solberg introduced:

H. F. No. 3790, A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for expenditure accountability, administration, and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants, programs, fees, and accounts; requiring reports; amending Minnesota Statutes 2008, sections 3.971, by adding a subdivision; 97A.056, by adding subdivisions; Minnesota Statutes 2009 Supplement, sections 85.53, subdivision 2; 103G.271, subdivision 6; 114D.50, subdivision 4; 129D.17, subdivision 2; Laws 2009, chapter 172, article 2, section 4; proposing coding for new law in Minnesota Statutes, chapters 3; 103G; repealing Laws 2009, chapter 172, article 5, section 9.

The bill was read for the first time and referred to the Committee on Finance.

Persell introduced:

H. F. No. 3791, A bill for an act relating to taxation; sales and use; expanding the exemption for certain public safety radio equipment; amending Minnesota Statutes 2008, section 297A.70, subdivision 8.

The bill was read for the first time and referred to the Committee on Taxes.

Knuth introduced:

H. F. No. 3792, A bill for an act relating to traffic regulations; amending statutory speed limits; amending Minnesota Statutes 2008, sections 169.011, by adding a subdivision; 169.14, subdivision 4; Minnesota Statutes 2009 Supplement, section 169.14, subdivision 2.

The bill was read for the first time and referred to the Transportation and Transit Policy and Oversight Division.

Drazkowski and Kelly introduced:

H. F. No. 3793, A bill for an act relating to local government; authorizing political subdivisions to publish proceedings, official notices, and summaries on their Web sites in lieu of newspaper publication; amending Minnesota Statutes 2008, section 331A.12.

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections.

Knuth introduced:

H. F. No. 3794, A bill for an act relating to traffic regulations; establishing speed limit on segment of marked Trunk Highway 51.

The bill was read for the first time and referred to the Transportation and Transit Policy and Oversight Division.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3591, A bill for an act relating to local government; authorizing the city of Minneapolis to adopt an ordinance to define the annual duration of operation of mobile food units; amending Minnesota Statutes 2008, section 157.15, subdivision 9.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Hornstein moved that the House refuse to concur in the Senate amendments to H. F. No. 3591, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3061, A bill for an act relating to solid waste; amending Minnesota's waste management hierarchy; amending Minnesota Statutes 2008, section 115A.02.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Hornstein moved that the House concur in the Senate amendments to H. F. No. 3061 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3061, A bill for an act relating to solid waste; amending Minnesota's waste management hierarchy; amending Minnesota Statutes 2008, section 115A.02.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 95 yeas and 35 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|--------|-------|----------|----------|----------|
| Abeler | Atkins | Bly | Brynaert | Champion | Davnie |
| Anderson, P. | Benson | Brod | Bunn | Clark | Dill |
| Anzelc | Bigham | Brown | Carlson | Cornish | Dittrich |

| | | | | | |
|----------|-----------|------------|-------------|-----------|---------------|
| Doty | Hoppe | Knuth | McNamara | Pelowski | Solberg |
| Eken | Hornstein | Koenen | Morgan | Persell | Sterner |
| Falk | Hortman | Laine | Morrow | Peterson | Swails |
| Faust | Hosch | Lenczewski | Mullery | Poppe | Thao |
| Fritz | Howes | Lesch | Murphy, E. | Reinert | Thissen |
| Gardner | Huntley | Liebling | Murphy, M. | Rosenthal | Tillberry |
| Greiling | Jackson | Lieder | Nelson | Rukavina | Urdahl |
| Hansen | Johnson | Lillie | Newton | Ruud | Wagenius |
| Hausman | Juhnke | Loeffler | Norton | Sailer | Ward |
| Haws | Kahn | Loon | Obermueller | Scalze | Welti |
| Hayden | Kalin | Mahoney | Olin | Sertich | Winkler |
| Hilstrom | Kath | Marquart | Otremba | Simon | Spk. Kelliher |
| Hilty | Kelly | Masin | Paymar | Slocum | |

Those who voted in the negative were:

| | | | | | |
|--------------|------------|----------|-----------|----------|-----------|
| Anderson, B. | Demmer | Emmer | Kiffmeyer | Nornes | Shimanski |
| Anderson, S. | Dettmer | Garofalo | Kohls | Peppin | Smith |
| Beard | Doepke | Gottwalt | Lanning | Sanders | Torkelson |
| Buesgens | Downey | Gunther | Magnus | Scott | Westrom |
| Davids | Drazkowski | Hamilton | McFarlane | Seifert | Zellers |
| Dean | Eastlund | Holberg | Murdock | Severson | |

The bill was repassed, as amended by the Senate, and its title agreed to.

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3286, A bill for an act relating to metropolitan government; limiting use of eminent domain; authorizing Metropolitan Council best value contracts and procurement for transit vehicles; amending Minnesota Statutes 2008, section 473.129, subdivision 7, by adding a subdivision.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Hornstein moved that the House concur in the Senate amendments to H. F. No. 3286 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3286, A bill for an act relating to metropolitan government; authorizing Metropolitan Council best value contracts and procurement for transit vehicles; amending Minnesota Statutes 2008, section 473.129, by adding a subdivision.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 97 yeas and 34 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|----------|-----------|------------|------------|-------------|---------------|
| Abeler | Eken | Howes | Loeffler | Norton | Slocum |
| Anzelc | Falk | Huntley | Loon | Obermueller | Solberg |
| Atkins | Faust | Jackson | Mahoney | Olin | Sterner |
| Benson | Fritz | Johnson | Mariani | Otremba | Swails |
| Bigham | Gardner | Juhnke | Marquart | Paymar | Thao |
| Bly | Garofalo | Kahn | Masin | Pelowski | Thissen |
| Brown | Greiling | Kalin | McFarlane | Persell | Tillberry |
| Brynaert | Gunther | Kath | McNamara | Peterson | Wagenius |
| Bunn | Hansen | Knuth | Morgan | Poppe | Ward |
| Carlson | Hausman | Koenen | Morrow | Reinert | Walti |
| Champion | Haws | Laine | Mullery | Rosenthal | Winkler |
| Clark | Hayden | Lanning | Murdock | Rukavina | Spk. Kelliher |
| Davnie | Hilstrom | Lenczewski | Murphy, E. | Ruud | |
| Demmer | Hilty | Lesch | Murphy, M. | Sailer | |
| Dill | Hornstein | Liebling | Nelson | Scalze | |
| Dittrich | Hortman | Lieder | Newton | Sertich | |
| Doty | Hosch | Lillie | Nornes | Simon | |

Those who voted in the negative were:

| | | | | | |
|--------------|---------|------------|-----------|-----------|-----------|
| Anderson, B. | Cornish | Draskowski | Hoppe | Sanders | Torkelson |
| Anderson, P. | Dauids | Eastlund | Kelly | Scott | Urdahl |
| Anderson, S. | Dean | Emmer | Kiffmeyer | Seifert | Westrom |
| Beard | Dettmer | Gottwalt | Kohls | Severson | Zellers |
| Brod | Doepke | Hamilton | Magnus | Shimanski | |
| Buesgens | Downey | Holberg | Peppin | Smith | |

The bill was repassed, as amended by the Senate, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2437, A bill for an act relating to public safety; recodifying and clarifying the domestic abuse no contact order law; expanding the tampering with a witness crime; increasing the maximum bail for nonfelony domestic assault and domestic abuse order for protection violations; clarifying the requirement that the data communications network include orders for protection and no contact orders; exempting certain domestic abuse or sexual attack programs from data practices requirements; extending area for protection to a reasonable area around residence or dwelling in ex parte orders for protection; modifying crime of stalking; authorizing a pilot project to allow judges to order electronic monitoring for domestic abuse offenders on pretrial release; imposing criminal penalties; amending Minnesota Statutes 2008, sections 299C.46, subdivision 6; 518B.01, subdivision 7; 609.498, subdivision 3, by adding a subdivision; 609.749; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivisions 1, 2a; proposing coding for new law in Minnesota Statutes, chapters 13; 629; repealing Minnesota Statutes 2008, section 518B.01, subdivision 22.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Moua, Limmer and Olson, M.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Hilstrom moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2437. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2519, A bill for an act relating to public utilities; requiring disclosure of public utility's travel, entertainment, and related expenses included in rate change request; amending Minnesota Statutes 2008, sections 13.681, by adding a subdivision; 216B.16, by adding a subdivision.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Anderson, Dahle, Sieben, Frederickson and Dibble.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Hilstrom moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 5 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2519. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2935, A bill for an act relating to human services; making changes to licensing provisions; modifying background study requirements, disqualifications, and data classification; amending Minnesota Statutes 2008, sections 245A.07, subdivision 2a; 245A.30; 245B.05, subdivision 7; 245C.02, subdivision 18; Minnesota Statutes 2009 Supplement, sections 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.07, subdivisions 1, 3; 245A.144; 245A.50, subdivision 5; 245C.15, subdivision 2; 245C.20; 245C.22, subdivision 7.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Lourey, Moua and Dille.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Abeler moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2935. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 3128, A bill for an act relating to residential construction; providing for lead poisoning prevention; amending the State Building Code; modifying licensing requirements; amending Minnesota Statutes 2008, sections 326B.106, by adding subdivisions; 326B.805, by adding a subdivision.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Kelash, Gerlach and Carlson.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Clark moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 3128. The motion prevailed.

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of H. F. No. 3386.

H. F. No. 3386, A bill for an act relating to real property; requiring performance guidelines for certain residential contracts; modifying statutory warranties; requiring notice and opportunity to repair; providing for dispute resolution procedures; requiring a report; amending Minnesota Statutes 2008, sections 302A.781, subdivision 4; 326B.809; 327A.01, by adding a subdivision; 327A.02, subdivision 4, by adding subdivisions; 327A.03; proposing coding for new law in Minnesota Statutes, chapter 327A.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 2846.

S. F. No. 2846, A bill for an act relating to transportation; modifying provisions governing movement of large vehicles on public streets and highways; making technical changes; repealing certain rules related to motor carriers; amending Minnesota Statutes 2008, sections 169.801, subdivision 5; 169.823, as amended; 169.826, as amended; 169.828, subdivision 1; 169.829; 169.851, subdivision 5; 169.86, subdivisions 1a, 5; 169.862, subdivision 1; 169.863, subdivision 1; 169.864, subdivision 4; 169.871, subdivisions 1, 1a, 1b; Minnesota Statutes 2009 Supplement, sections 169.801, subdivision 10; 169.81, subdivision 3; 169.824, subdivisions 1, 2; 169.8261, subdivisions 1, 2; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivision 2; 169.865, subdivision 1; 169.87, subdivision 2; 221.025; 221.031, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 2008, section 169.826, subdivision 6; Minnesota Rules, parts 7800.0100, subparts 4, 6, 7, 8, 11, 12, 13, 14; 7800.0200; 7800.0400; 7800.0800; 7800.0900; 7800.1000; 7800.3200, subpart 2; 7800.3300; 7805.0500; 7805.0900; 7805.1300; 8850.7950; 8850.8000; 8850.8050, subpart 2; 8850.8100; 8850.8250; 8850.8300; 8850.8350; 8850.8800; 8850.8850; 8850.9050, subpart 3; 8855.0410; 8855.0600; 8855.0850; 8920.0100; 8920.0150; 8920.0200; 8920.0300; 8920.0400; 8920.0500; 8920.0600; 8920.0700; 8920.0800; 8920.0900; 8920.1000; 8920.1100; 8920.1200; 8920.1300; 8920.1400; 8920.1500; 8920.1550; 8920.1600; 8920.1700; 8920.1800; 8920.1900;

8920.2000; 8920.2100; 8920.2200; 8920.2300; 8920.2400; 8920.2500; 8920.2600; 8920.2700; 8920.2800; 8920.2900; 8920.3000; 8920.3100; 8920.3200; 8920.3300; 8920.3400; 8920.3500; 8920.3600; 8920.3700; 8920.3800; 8920.3900; 8920.4000; 8920.4100; 8920.4200; 8920.4300; 8920.4400; 8920.4500.

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 130 yeas and 3 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Buesgens Dean Emmer

The bill was passed and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 2851, A bill for an act relating to health; making technical changes to licensing provisions; amending Minnesota Statutes 2008, sections 144.55, subdivision 2; 148.5193, subdivision 6; 148.5195, subdivision 3; 148.6418, subdivisions 1, 2; Minnesota Statutes 2009 Supplement, section 148.6405.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

The Speaker called Hortman to the Chair.

S. F. No. 364 was reported to the House.

Dettmer moved to amend S. F. No. 364, the second engrossment, as follows:

Page 2, line 15, after "kept" insert ", and a copy of the petition must be submitted to the auditor of each of the other counties participating in the joint county drainage authority"

Page 2, line 16, after the period, insert "The auditor of an affected county or the secretary of a watershed district must make a copy of the petition available to the public."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 364, A bill for an act relating to waters; modifying drainage system provisions; amending Minnesota Statutes 2008, sections 103B.101, by adding a subdivision; 103E.065; 103E.227; 103E.401, subdivision 3; 103E.505, subdivision 3; 103E.611, subdivision 1; 103E.735, subdivision 1; 103E.805; proposing coding for new law in Minnesota Statutes, chapter 103E.

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 109 yeas and 24 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|-----------|------------|------------|-------------|---------------|
| Abeler | Dill | Hortman | Loeffler | Norton | Smith |
| Anderson, P. | Dittrich | Hosch | Loon | Obermueller | Solberg |
| Anderson, S. | Doty | Howes | Mack | Olin | Sterner |
| Anzelc | Downey | Huntley | Magnus | Otremba | Swails |
| Atkins | Eken | Jackson | Mahoney | Paymar | Thao |
| Benson | Falk | Johnson | Mariani | Pelowski | Thissen |
| Bigham | Faust | Juhnke | Marquart | Persell | Tillberry |
| Bly | Fritz | Kahn | Masin | Peterson | Torkelson |
| Brown | Gardner | Kalin | McFarlane | Poppe | Urdahl |
| Brynaert | Greiling | Kath | McNamara | Reinert | Wagenius |
| Bunn | Gunther | Knuth | Morgan | Rosenthal | Ward |
| Carlson | Hamilton | Koenen | Morrow | Rukavina | Wolti |
| Champion | Hansen | Laine | Mullery | Ruud | Winkler |
| Clark | Hausman | Lanning | Murdock | Sailer | Spk. Kelliher |
| Cornish | Haws | Lenczewski | Murphy, E. | Sanders | |
| Davids | Hayden | Lesch | Murphy, M. | Scalze | |
| Davnie | Hilstrom | Liebling | Nelson | Sertich | |
| Demmer | Hilty | Lieder | Newton | Simon | |
| Dettmer | Hornstein | Lillie | Nornes | Slocum | |

Those who voted in the negative were:

| | | | | | |
|--------------|------------|-----------|-----------|---------|-----------|
| Anderson, B. | Dean | Emmer | Holberg | Kohls | Severson |
| Beard | Doepke | Garofalo | Hoppe | Peppin | Shimanski |
| Brod | Drazkowski | Gottwalt | Kelly | Scott | Westrom |
| Buesgens | Eastlund | Hackbarth | Kiffmeyer | Seifert | Zellers |

The bill was passed, as amended, and its title agreed to.

S. F. No. 2825 was reported to the House.

Davids moved to amend S. F. No. 2825, the first engrossment, as follows:

Page 8, after line 13, insert:

"Sec. 7. Minnesota Statutes 2008, section 61A.245, subdivision 3, is amended to read:

Subd. 3. **Required contract provisions.** (a) In the case of contracts issued on or after the operative date specified in subdivision 12, no contract of annuity, except as stated in subdivision 2, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) that upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of the value specified in subdivisions 5, 6, 7, 8 and 10;

(2) if a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of the amount specified in subdivisions 5, 6, 8 and 10. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract after making a written request and receiving written approval of the commissioner. The request must address the necessity and equitability to all contract holders of the deferral;

(3) a statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits; and

(4) a statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

(b) Notwithstanding the requirements of this subdivision, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to that period would be less than \$20 monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by the payment shall be relieved of any further obligation under the contract.

(c) If a death benefit becomes payable as specified in the contract, the contract may not treat the payment of the death benefit as a surrender of the annuity contract or otherwise impose a surrender penalty.

EFFECTIVE DATE. This section is effective January 1, 2011, and applies to annuity contracts issued on or after that date."

The motion prevailed and the amendment was adopted.

S. F. No. 2825, A bill for an act relating to commerce; modifying continuing education provisions; amending insurance laws involving insurance company rehabilitation and liquidation, group life insurance, the use of mortality tables, the Life and Health Insurance Guaranty Association, and mutual insurance companies; regulating fraternal benefit societies; amending Minnesota Statutes 2008, sections 60B.03, by adding subdivisions; 61A.09, by adding a subdivision; 61A.257, subdivisions 2, 3; 61B.19, subdivision 3; 61B.28, subdivision 7; 64B.19, by adding a subdivision; 66A.40, subdivision 11; 66A.42; Minnesota Statutes 2009 Supplement, sections 45.31, subdivision 3; 60K.56, subdivision 6; 61B.19, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60B; 64B.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed, as amended, and its title agreed to.

S. F. No. 2933 was reported to the House.

Hosch moved to amend S. F. No. 2933, the first engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 3234, the first engrossment:

"ARTICLE 1

CONTINUING CARE POLICY

Section 1. Minnesota Statutes 2009 Supplement, section 144.0724, subdivision 11, is amended to read:

Subd. 11. **Nursing facility level of care.** (a) For purposes of medical assistance payment of long-term care services, a recipient must be determined, using assessments defined in subdivision 4, to meet one of the following nursing facility level of care criteria:

(1) the person requires formal clinical monitoring at least once per day;

~~(1)~~ (2) the person needs the assistance of another person or constant supervision to begin and complete at least four of the following activities of living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring, and walking;

(2) (3) the person needs the assistance of another person or constant supervision to begin and complete toileting, transferring, or positioning and the assistance cannot be scheduled;

(3) (4) the person has significant difficulty with memory, using information, daily decision making, or behavioral needs that require intervention;

(4) (5) the person has had a qualifying nursing facility stay of at least 90 days;

(6) the person meets the nursing facility level of care criteria determined 90 days after admission or on the first quarterly assessment after admission, whichever is later; or

(5) (7) the person is determined to be at risk for nursing facility admission or readmission through a face-to-face long-term care consultation assessment as specified in section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care organization under contract with the Department of Human Services. The person is considered at risk under this clause if the person currently lives alone or will live alone upon discharge and also meets one of the following criteria:

(i) the person has experienced a fall resulting in a fracture;

(ii) the person has been determined to be at risk of maltreatment or neglect, including self-neglect; or

(iii) the person has a sensory impairment that substantially impacts functional ability and maintenance of a community residence.

(b) The assessment used to establish medical assistance payment for nursing facility services must be the most recent assessment performed under subdivision 4, paragraph (b), that occurred no more than 90 calendar days before the effective date of medical assistance eligibility for payment of long-term care services. In no case shall medical assistance payment for long-term care services occur prior to the date of the determination of nursing facility level of care.

(c) The assessment used to establish medical assistance payment for long-term care services provided under sections 256B.0915 and 256B.49 and alternative care payment for services provided under section 256B.0913 must be the most recent face-to-face assessment performed under section 256B.0911, subdivision 3a, 3b, or 4d, that occurred no more than 60 calendar days before the effective date of medical assistance eligibility for payment of long-term care services.

Sec. 2. Minnesota Statutes 2008, section 144A.071, subdivision 4b, is amended to read:

Subd. 4b. **Licensed beds on layaway status.** A licensed and certified nursing facility may lay away, upon prior written notice to the commissioner of health, ~~up to 50 percent of its~~ licensed and certified beds. A nursing facility may not discharge a resident in order to lay away a bed. Notice to the commissioner shall be given 60 days prior to the effective date of the layaway. Beds on layaway shall have the same status as voluntarily delicensed and decertified beds and shall not be subject to license fees and license surcharge fees. In addition, beds on layaway may be removed from layaway at any time on or after one year after the effective date of layaway in the facility of origin, with a 60-day notice to the commissioner. A nursing facility that removes beds from layaway may not place beds on layaway status for one year after the effective date of the removal from layaway. The commissioner may approve the immediate removal of beds from layaway if necessary to provide access to those nursing home beds to residents relocated from other nursing homes due to emergency situations or closure. In the event approval is granted, the one-year restriction on placing beds on layaway after a removal of beds from layaway shall not apply. Beds may remain on layaway for up to ~~five~~ ten years. The commissioner may approve placing and removing beds on layaway at any time during renovation or construction related to a moratorium project approved under this section or section 144A.073. Nursing facilities are not required to comply with any licensure or certification requirements for beds on layaway status.

Sec. 3. Minnesota Statutes 2008, section 144A.161, subdivision 1a, is amended to read:

Subd. 1a. **Scope.** Where a facility is undertaking closure, curtailment, reduction, or change in operations, or where a housing with services unit registered under chapter 144D is closed because the space that it occupies is being replaced by a nursing facility bed that is being reactivated from layaway status, the facility and the county social services agency must comply with the requirements of this section.

Sec. 4. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision to read:

Subd. 9. **Permitted services by an individual who is related.** Notwithstanding subdivision 2, paragraph (a), clause (1), and subdivision 7, an individual who is related to a person receiving supported living services may provide licensed services to that person if:

(1) the person who receives supported living services received these services in a residential site on July 1, 2005;

(2) the services under clause (1) were provided in a corporate foster care setting for adults and were funded by the developmental disabilities home and community-based services waiver defined in section 256B.092;

(3) the individual who is related obtains and maintains both a license under chapter 245B and an adult foster care license under Minnesota Rules, parts 9555.5105 to 9555.6265; and

(4) the individual who is related is not the guardian of the person receiving supported living services.

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

Sec. 5. Minnesota Statutes 2009 Supplement, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. **Personal care.** Medical assistance covers personal care assistance services provided by an individual who is qualified to provide the services according to subdivision 19a and sections 256B.0651 to 256B.0656, provided in accordance with a plan, and supervised by a qualified professional.

"Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, a licensed social worker as defined in ~~section 148B.21~~ sections 148D.010 and 148D.055, or a qualified developmental disabilities specialist under section 245B.07, subdivision 4. The qualified professional shall perform the duties required in section 256B.0659.

Sec. 6. Minnesota Statutes 2009 Supplement, section 256B.0651, is amended by adding a subdivision to read:

Subd. 17. **Recipient protection.** (a) Providers of home care services must provide each recipient with a copy of the home care bill of rights under section 144A.44 at least 30 days prior to terminating services to a recipient, if the termination results from provider sanctions under section 256B.064, such as a payment withhold, a suspension of participation, or a termination of participation. If a home care provider determines it is unable to continue providing services to a recipient, the provider must notify the recipient, the recipient's responsible party, and the commissioner 30 days prior to terminating services to the recipient because of an action under section 256B.064, and must assist the commissioner and lead agency in supporting the recipient in transitioning to another home care provider of the recipient's choice.

(b) In the event of a payment withhold from a home care provider, a suspension of participation, or a termination of participation of a home care provider under section 256B.064, the commissioner may inform the Office of Ombudsman for Long-Term Care and the lead agencies for all recipients with active service agreements with the

provider. At the commissioner's request, the lead agencies must contact recipients to ensure that the recipients are continuing to receive needed care, and that the recipients have been given free choice of provider if they transfer to another home care provider. In addition, the commissioner or the commissioner's delegate may directly notify recipients who receive care from the provider that payments have been withheld or that the provider's participation in medical assistance has been suspended or terminated, if the commissioner determines that notification is necessary to protect the welfare of the recipients. For purposes of this subdivision, "lead agencies" means counties, tribes, and managed care organizations.

Sec. 7. Minnesota Statutes 2009 Supplement, section 256B.0652, subdivision 6, is amended to read:

Subd. 6. **Authorization; personal care assistance and qualified professional.** (a) All personal care assistance services, supervision by a qualified professional, and additional services beyond the limits established in subdivision 11, must be authorized by the commissioner or the commissioner's designee before services begin except for the assessments established in subdivision 11 and section 256B.0911. The authorization for personal care assistance and qualified professional services under section 256B.0659 must be completed within 30 days after receiving a complete request.

(b) The amount of personal care assistance services authorized must be based on the recipient's home care rating. The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner identifying the following:

- (1) total number of dependencies of activities of daily living as defined in section 256B.0659;
- (2) ~~number~~ presence of complex health-related needs as defined in section 256B.0659; and
- (3) ~~number~~ presence of behavior ~~descriptions~~ as defined in section 256B.0659.

(c) The methodology to determine total time for personal care assistance services for each home care rating is based on the median paid units per day for each home care rating from fiscal year 2007 data for the personal care assistance program. Each home care rating has a base level of hours assigned. Additional time is added through the assessment and identification of the following:

- (1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in section 256B.0659;
- (2) 30 additional minutes per day for each complex health-related function as defined in section 256B.0659; and
- (3) 30 additional minutes per day for each behavior issue as defined in section 256B.0659.

(d) A limit of 96 units of qualified professional supervision may be authorized for each recipient receiving personal care assistance services. A request to the commissioner to exceed this total in a calendar year must be requested by the personal care provider agency on a form approved by the commissioner.

Sec. 8. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 10, is amended to read:

Subd. 10. **Responsible party; duties; delegation.** (a) A responsible party shall enter into a written agreement with a personal care assistance provider agency, on a form determined by the commissioner, to perform the following duties:

- (1) be available while care is provided in a method agreed upon by the individual or the individual's legal representative and documented in the recipient's personal care assistance care plan;

(2) monitor personal care assistance services to ensure the recipient's personal care assistance care plan is being followed; and

(3) review and sign personal care assistance time sheets after services are provided to provide verification of the personal care assistance services.

Failure to provide the support required by the recipient must result in a referral to the county common entry point.

(b) Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult who is not the personal care assistant during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of the responsible party. The responsible party must ensure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the personal care assistance care plan. The responsible party must communicate to the personal care assistance provider agency about the need for a ~~delegate~~ delegated responsible party, including the name of the delegated responsible party, ~~dates the delegated responsible party will be living with the recipient,~~ and contact numbers.

Sec. 9. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 11, is amended to read:

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Except as provided in subdivision 11a, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient within the first seven days after the services begin; and

(10) be limited to providing and being paid for up to 310 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Effective January 1, 2010, persons who do not qualify as a personal care assistant include parents and stepparents of minors, spouses, paid legal guardians, family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or staff of a residential setting.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2009.

Sec. 10. Minnesota Statutes 2009 Supplement, section 256B.0659, is amended by adding a subdivision to read:

Subd. 11a. **Exception to personal care assistant; requirements.** The personal care assistant for a recipient may be allowed to enroll with a different personal care assistant provider agency upon initiation of a new background study according to chapter 245C if all of the following are met:

(1) the commissioner determines that a change in enrollment or affiliation of the personal care assistant is needed in order to ensure continuity of services and protect the health and safety of the recipient;

(2) the chosen agency has been continuously enrolled as a personal care assistance provider agency for at least two years;

(3) the recipient chooses to transfer to the personal care assistance provider agency;

(4) the personal care assistant has been continuously enrolled with the former personal care assistance provider agency since the last background study was completed; and

(5) the personal care assistant continues to meet requirements of subdivision 11, excluding paragraph (a), clause (3).

EFFECTIVE DATE. This section is effective retroactively from July 1, 2009.

Sec. 11. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 13, is amended to read:

Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional must ~~be employed by~~ work for a personal care assistance provider agency and meet the definition under section 256B.0625, subdivision 19c. Before a qualified professional provides services, the personal care assistance provider agency must initiate a background study on the qualified professional under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional:

(1) is not disqualified under section 245C.14; or

(2) is disqualified, but the qualified professional has received a set aside of the disqualification under section 245C.22.

(b) The qualified professional shall perform the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care assistance services. The qualified professional shall:

(1) develop and monitor with the recipient a personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) develop and monitor with the recipient a monthly plan for the use of personal care assistance services;

(3) review documentation of personal care assistance services provided;

(4) provide training and ensure competency for the personal care assistant in the individual needs of the recipient; and

(5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

(c) Effective January 1, 2010, the qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required ~~trainings~~ training as ~~an employee with a worker from~~ a personal care assistance provider agency do not need to repeat the required ~~trainings~~ training if they are hired by another agency, if they have completed the training within the last three years.

Sec. 12. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 21, is amended to read:

Subd. 21. **Requirements for initial enrollment of personal care assistance provider agencies.** (a) All personal care assistance provider agencies must provide, at the time of enrollment as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the provider's payments from Medicaid in the previous year, whichever is less;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) proof of liability insurance;

~~(6)~~ (6) a description of the personal care assistance provider agency's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

~~(6)~~ (7) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

~~(7)~~ (8) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template for the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

~~(8)~~ (9) a list of all ~~trainings~~ training and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

~~(9)~~ (10) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section;

~~(10)~~ (11) documentation of the agency's marketing practices;

~~(11)~~ (12) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services; and

~~(12)~~ (13) documentation that the agency will use the following percentages of revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal care assistance choice option and 72.5 percent of revenue from other personal care assistance providers.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning July 1, 2009.

(c) All personal care assistance provider agencies shall complete mandatory training as determined by the commissioner before enrollment as a provider. Personal care assistance provider agencies are required to send all owners, qualified professionals employed by the agency, and all other managing employees to the initial and subsequent ~~trainings~~ training. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective July 1, 2009. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of July 1, 2009. Any new owners, new qualified professionals, and new managing employees are required to complete mandatory training as a requisite of hiring.

Sec. 13. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 30, is amended to read:

Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

(1) by October 31, 2009, information to recipients likely to be affected that (i) describes the changes to the personal care assistance program that may result in the loss of access to personal care assistance services, and (ii) includes resources to obtain further information; and

(2) notice of changes in medical assistance ~~home care~~ personal care assistant services to each affected recipient at least 30 days before the effective date of the change.

The notice shall include how to get further information on the changes, how to get help to obtain other services, a list of community resources, and appeal rights. Notwithstanding section 256.045, a recipient may request continued services pending appeal within the time period allowed to request an appeal.

Sec. 14. Minnesota Statutes 2009 Supplement, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Long-term care consultation services" means:

- (1) assistance in identifying services needed to maintain an individual in the most inclusive environment;
- (2) providing recommendations on cost-effective community services that are available to the individual;
- (3) development of an individual's person-centered community support plan;
- (4) providing information regarding eligibility for Minnesota health care programs;

(5) face-to-face long-term care consultation assessments, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment centers, or the person's current or planned residence;

(6) federally mandated screening to determine the need for a institutional level of care under section 256B.0911, subdivision 4, paragraph (a);

(7) determination of home and community-based waiver service eligibility including level of care determination for individuals who need an institutional level of care as defined under section 144.0724, subdivision 11, or 256B.092, service eligibility including state plan home care services identified in ~~section~~ sections 256B.0625, subdivisions 6, 7, and 19, paragraphs (a) and (c), and 256B.0657, based on assessment and support plan development with appropriate referrals, including the option for consumer-directed community supports;

(8) providing recommendations for nursing facility placement when there are no cost-effective community services available; and

(9) assistance to transition people back to community settings after facility admission.

(b) "Long-term care options counseling" means the services provided by the linkage lines as mandated by sections 256.01 and 256.975, subdivision 7, and also includes telephone assistance and follow up once a long-term care consultation assessment has been completed.

(c) "Minnesota health care programs" means the medical assistance program under chapter 256B and the alternative care program under section 256B.0913.

(d) "Lead agencies" means counties or a collaboration of counties, tribes, and health plans administering long-term care consultation assessment and support planning services.

Sec. 15. Minnesota Statutes 2009 Supplement, section 256B.0911, subdivision 2b, is amended to read:

Subd. 2b. **Certified assessors.** (a) Beginning January 1, 2011, each lead agency shall use certified assessors who have completed training and the certification processes determined by the commissioner in subdivision 2c. Certified assessors shall demonstrate best practices in assessment and support planning including person-centered

planning principals and have a common set of skills that must ensure consistency and equitable access to services statewide. Assessors must be part of a multidisciplinary team of professionals that includes public health nurses, social workers, and other professionals as defined in paragraph (b). For persons with complex health care needs, a public health nurse or registered nurse from a multidisciplinary team must be consulted. A lead agency may choose, according to departmental policies, to contract with a qualified, certified assessor to conduct assessments and reassessments on behalf of the lead agency.

(b) Certified assessors are persons with a minimum of a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field with at least one year of home and community-based experience or a two-year registered nursing degree with at least three years of home and community-based experience that have received training and certification specific to assessment and consultation for long-term care services in the state.

Sec. 16. Minnesota Statutes 2009 Supplement, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 15 calendar days after the date on which an assessment was requested or recommended. After January 1, 2011, these requirements also apply to personal care assistance services, private duty nursing, and home health agency services, on timelines established in subdivision 5. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) The county may utilize a team of either the social worker or public health nurse, or both. After January 1, 2011, lead agencies shall use certified assessors to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

(c) The assessment must be comprehensive and include a person-centered assessment of the health, psychological, functional, environmental, and social needs of referred individuals and provide information necessary to develop a support plan that meets the consumers needs, using an assessment form provided by the commissioner.

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services.

(e) The person, or the person's legal representative, must be provided with written recommendations for community-based services, including consumer-directed options, or institutional care that include documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than institutional care.

(f) If the person chooses to use community-based services, the person or the person's legal representative must be provided with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to the services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in subdivision 4a, paragraph (c).

(h) The team must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

- (1) the need for and purpose of preadmission screening if the person selects nursing facility placement;
- (2) the role of the long-term care consultation assessment and support planning in waiver and alternative care program eligibility determination;
- (3) information about Minnesota health care programs;
- (4) the person's freedom to accept or reject the recommendations of the team;
- (5) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;
- (6) the long-term care consultant's decision regarding the person's need for institutional level of care as determined under criteria established in section 144.0724, subdivision 11, or 256B.092; and
- (7) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and traumatic brain injury waiver programs under sections 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment. The effective eligibility start date for these programs can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated in a face-to-face visit and documented in the department's Medicaid Management Information System (MMIS). The effective date of program eligibility in this case cannot be prior to the date the updated assessment is completed.

Sec. 17. Minnesota Statutes 2009 Supplement, section 256B.0911, subdivision 3b, is amended to read:

Subd. 3b. **Transition assistance.** (a) A long-term care consultation team shall provide assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility for persons with developmental disabilities who request or are referred for assistance. Transition assistance must include assessment, community support plan development, referrals to long-term care options counseling under section 256B.975, subdivision 10, for community support plan implementation and to Minnesota health care programs, including home and community-based waiver services and consumer-directed options through the waivers, and referrals to programs that provide assistance with housing. Transition assistance must also include information about the Centers for Independent Living and the Senior LinkAge Line, and about other organizations that can provide assistance with relocation efforts, and information about contacting these organizations to obtain their assistance and support.

(b) The county shall develop transition processes with institutional social workers and discharge planners to ensure that:

- (1) persons admitted to facilities receive information about transition assistance that is available;
- (2) the assessment is completed for persons within ten working days of the date of request or recommendation for assessment; and

(3) there is a plan for transition and follow-up for the individual's return to the community. The plan must require notification of other local agencies when a person who may require assistance is screened by one county for admission to a facility located in another county.

(c) If a person who is eligible for a Minnesota health care program is admitted to a nursing facility, the nursing facility must include a consultation team member or the case manager in the discharge planning process.

Sec. 18. Minnesota Statutes 2008, section 256B.0911, subdivision 4d, is amended to read:

Subd. 4d. **Preadmission screening of individuals under 65 years of age.** (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a nursing facility from a hospital must be screened prior to admission as outlined in subdivisions 4a through 4c.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within 40 calendar days of admission.

(d) Individuals under 65 years of age who are admitted to a nursing facility without preadmission screening according to the exemption described in subdivision 4b, paragraph (a), clause (3), and who remain in the facility longer than 30 days must receive a face-to-face assessment within 40 days of admission.

(e) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3b.

(f) For individuals under 21 years of age, a screening interview which recommends nursing facility admission must be face-to-face and approved by the commissioner before the individual is admitted to the nursing facility.

(g) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the county must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within 40 calendar days of admission.

(h) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options, including consumer-directed options, so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

(i) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

(j) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

Sec. 19. Minnesota Statutes 2008, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. **Evaluation and referral of reports made to common entry point unit.** The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

~~(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify~~ refer all reports of alleged or suspected maltreatment to the appropriate lead agency as soon as possible, but in any event no longer than two working days; and

~~(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred; and~~

~~(5)~~ (4) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Sec. 20. **ELDERLY WAIVER CONVERSION.**

Notwithstanding Minnesota Statutes, section 256B.0915, subdivision 3b, a person age 65 or older with an MT home care rating on January 1, 2010, is eligible for the elderly waiver program and shall be considered a conversion for purposes of accessing monthly budget caps equal to no more than the person's monthly spending under the personal care assistance program on January 1, 2010.

Sec. 21. **DIRECTION TO COMMISSIONER; CONSULTATION WITH STAKEHOLDERS.**

The commissioner shall consult with stakeholders experienced in using and providing services through the consumer-directed community supports option during the identification of data to be used in future development of an individualized budget methodology for the home and community-based waivers under the new comprehensive assessment.

ARTICLE 2

PERSONAL CARE ASSISTANT SERVICES

Section 1. Minnesota Statutes 2009 Supplement, section 256B.0653, subdivision 3, is amended to read:

Subd. 3. **Home health aide visits.** (a) Home health aide visits must be provided by a certified home health aide using a written plan of care that is updated in compliance with Medicare regulations. A home health aide shall provide hands-on personal care, perform simple procedures as an extension of therapy or nursing services, and assist in instrumental activities of daily living as defined in section 256B.0659, including ensuring that the person gets to medical appointments if identified in the written plan of care. Home health aide visits must be provided in the recipient's home.

(b) All home health aide visits must have authorization under section 256B.0652. The commissioner shall limit home health aide visits to no more than one visit per day per recipient.

(c) Home health aides must be supervised by a registered nurse or an appropriate therapist when providing services that are an extension of therapy.

Sec. 2. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to ~~(p)~~ (r) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section. "Level I behavior" means physical aggression towards self, others, or destruction of property that requires the immediate response of another person.

(d) "Complex health-related needs," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section.

(e) "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

(f) "Dependency in activities of daily living" means a person requires assistance to begin and complete one or more of the activities of daily living.

(g) "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under sections 256B.49, 256B.0915, and 256B.092, subdivision 5, which exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

(1) need assistance provided periodically during a week, but less than daily will not be able to remain in their home without the assistance, and other replacement services are more expensive or are not available when personal care assistance services are to be terminated; or

(2) need additional personal care assistance services beyond the amount authorized by the state plan personal care assistance assessment in order to ensure that their safety, health, and welfare are provided for in their homes.

(h) "Health-related procedures and tasks" means procedures and tasks that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

~~(h)~~ (i) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community.

~~(i)~~ (j) "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

~~(j)~~ (k) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

~~(k)~~ (l) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes a personal care assistance provider organization, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

~~(h)~~ (m) "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

~~(m)~~ (n) "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

~~(n)~~ (o) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

~~(o)~~ (p) "Self-administered medication" means medication taken orally, by injection or insertion, or applied topically without the need for assistance.

~~(p)~~ (q) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

(r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts.

Sec. 3. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 3, is amended to read:

Subd. 3. **Noncovered personal care assistance services.** (a) Personal care assistance services are not eligible for medical assistance payment under this section when provided:

(1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian, licensed foster provider, except as allowed under section 256B.0651, subdivision 10, or responsible party;

(2) in lieu of other staffing options in a residential or child care setting;

(3) solely as a child care or babysitting service; or

(4) without authorization by the commissioner or the commissioner's designee.

(b) The following personal care services are not eligible for medical assistance payment under this section when provided in residential settings:

(1) effective January 1, 2010, when the provider of home care services who is not related by blood, marriage, or adoption owns or otherwise controls the living arrangement, including licensed or unlicensed services; or

(2) when personal care assistance services are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules.

(c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for medical assistance reimbursement for personal care assistance services under this section include:

- (1) sterile procedures;
- (2) injections of fluids and medications into veins, muscles, or skin;
- (3) home maintenance or chore services;
- (4) homemaker services not an integral part of assessed personal care assistance services needed by a recipient;
- (5) application of restraints or implementation of procedures under section 245.825;

(6) instrumental activities of daily living for children under the age of 18, except when immediate attention is needed for health or hygiene reasons integral to the personal care services or traveling to medical appointments and the need is listed in the service plan by the assessor; and

(7) assessments for personal care assistance services by personal care assistance provider agencies or by independently enrolled registered nurses.

Sec. 4. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 4, is amended to read:

Subd. 4. **Assessment for personal care assistance services; limitations.** (a) An assessment as defined in subdivision 3a must be completed for personal care assistance services.

(b) The following limitations apply to the assessment:

(1) a person must be assessed as dependent in an activity of daily living based on the person's ongoing need, ~~on a daily basis~~, for:

- (i) cuing and constant supervision to complete the task; or
- (ii) hands-on assistance to complete the task; and

(2) a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity. Assistance needed is the assistance appropriate for a typical child of the same age.

(c) Assessment for complex health-related needs must meet the criteria in this paragraph. During the assessment process, a recipient qualifies as having complex health-related needs if the recipient has one or more of the interventions that are ordered by a physician, specified in a personal care assistance care plan, and found in the following:

- (1) tube feedings requiring:
 - (i) a gastro/jejunostomy tube; or
 - (ii) continuous tube feeding lasting longer than 12 hours per day;
- (2) wounds described as:
 - (i) stage III or stage IV;
 - (ii) multiple wounds;

- (iii) requiring sterile or clean dressing changes or a wound vac; or
 - (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;
 - (3) parenteral therapy described as:
 - (i) IV therapy more than two times per week lasting longer than four hours for each treatment; or
 - (ii) total parenteral nutrition (TPN) daily;
 - (4) respiratory interventions including:
 - (i) oxygen required more than eight hours per day;
 - (ii) respiratory vest more than one time per day;
 - (iii) bronchial drainage treatments more than two times per day;
 - (iv) sterile or clean suctioning more than six times per day;
 - (v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and
 - (vi) ventilator dependence under section 256B.0652;
 - (5) insertion and maintenance of catheter including:
 - (i) sterile catheter changes more than one time per month;
 - (ii) clean self-catheterization more than six times per day; or
 - (iii) bladder irrigations;
 - (6) bowel program more than two times per week requiring more than 30 minutes to perform each time;
 - (7) neurological intervention including:
 - (i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or
 - (ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and
 - (8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.
- (d) An assessment of behaviors must meet the criteria in this paragraph. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:
- (1) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;

- (2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or
- (3) verbally aggressive and resistive to care.

Sec. 5. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 11, is amended to read:

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient within the first seven days after the services begin; and

(10) be limited to providing and being paid for up to 310 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Effective January 1, 2010, persons who do not qualify as a personal care assistant include parents and stepparents of minors, spouses, paid legal guardians, family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or staff of a residential setting.

Sec. 6. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 13, is amended to read:

Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional must be employed by a personal care assistance provider agency and meet the definition under section 256B.0625, subdivision 19c. Before a qualified professional provides services, the personal care assistance provider agency must initiate a background study on the qualified professional under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional:

(1) is not disqualified under section 245C.14; or

(2) is disqualified, but the qualified professional has received a set aside of the disqualification under section 245C.22.

(b) The qualified professional shall perform the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care assistance services. The qualified professional shall:

(1) develop and monitor with the recipient a personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) develop and monitor with the recipient a monthly plan for the use of personal care assistance services;

(3) review documentation of personal care assistance services provided;

(4) provide training and ensure competency for the personal care assistant in the individual needs of the recipient; and

(5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

(c) Effective ~~January~~ July 1, 2010, the qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required trainings as an employee with a personal care assistance provider agency do not need to repeat the required trainings if they are hired by another agency, if they have completed the training within the last three years. The required training shall be available in languages other than English and to those who need accommodations due to disabilities, online, or by electronic remote connection, and provide for competency testing to demonstrate an understanding of the content without attending in-person training. A qualified professional is allowed to be employed and is not subject to the training requirement until the training is offered online or through remote

electronic connection. A qualified professional employed by a personal care assistance provider agency certified for participation in Medicare as a home health agency is exempt from the training required in this subdivision. The commissioner shall ensure there is a mechanism in place to verify the identity of persons completing the competency testing electronically.

Sec. 7. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 14, is amended to read:

Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal care assistants must be supervised by a qualified professional.

(b) Through direct training, observation, return demonstrations, and consultation with the staff and the recipient, the qualified professional must ensure and document that the personal care assistant is:

- (1) capable of providing the required personal care assistance services;
- (2) knowledgeable about the plan of personal care assistance services before services are performed; and
- (3) able to identify conditions that should be immediately brought to the attention of the qualified professional.

(c) The qualified professional shall evaluate the personal care assistant within the first 14 days of starting to provide regularly scheduled services for a recipient except for the personal care assistance choice option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the qualified professional shall evaluate the personal care assistance services for a recipient through direct observation of a personal care assistant's work. Subsequent visits to evaluate the personal care assistance services provided to a recipient do not require direct observation of each personal care assistant's work and shall occur:

- (1) at least every 90 days thereafter for the first year of a recipient's services; ~~and~~
- (2) every 120 days after the first year of a recipient's service or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff; and
- (3) after the first 180 days of a recipient's service, supervisory visits may alternate between unscheduled phone or Internet technology and in-person visits, unless the in-person visits are needed according to the care plan.

(d) Communication with the recipient is a part of the evaluation process of the personal care assistance staff.

(e) At each supervisory visit, the qualified professional shall evaluate personal care assistance services including the following information:

- (1) satisfaction level of the recipient with personal care assistance services;
- (2) review of the month-to-month plan for use of personal care assistance services;
- (3) review of documentation of personal care assistance services provided;
- (4) whether the personal care assistance services are meeting the goals of the service as stated in the personal care assistance care plan and service plan;
- (5) a written record of the results of the evaluation and actions taken to correct any deficiencies in the work of a personal care assistant; and

(6) revision of the personal care assistance care plan as necessary in consultation with the recipient or responsible party, to meet the needs of the recipient.

(f) The qualified professional shall complete the required documentation in the agency recipient and employee files and the recipient's home, including the following documentation:

(1) the personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) a month-to-month plan for use of personal care assistance services;

(3) changes in need of the recipient requiring a change to the level of service and the personal care assistance care plan;

(4) evaluation results of supervision visits and identified issues with personal care assistance staff with actions taken;

(5) all communication with the recipient and personal care assistance staff; and

(6) hands-on training or individualized training for the care of the recipient.

(g) The documentation in paragraph (f) must be done on agency forms.

(h) The services that are not eligible for payment as qualified professional services include:

(1) direct professional nursing tasks that could be assessed and authorized as skilled nursing tasks;

(2) supervision of personal care assistance completed by telephone;

(3) agency administrative activities;

(4) training other than the individualized training required to provide care for a recipient; and

(5) any other activity that is not described in this section.

Sec. 8. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 18, is amended to read:

Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner may allow a recipient of personal care assistance services to use a fiscal intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistance services. Unless otherwise provided in this section, all other statutory and regulatory provisions relating to personal care assistance services apply to a recipient using the personal care assistance choice option.

(b) Personal care assistance choice is an option of the personal care assistance program that allows the recipient who receives personal care assistance services to be responsible for the hiring, training, scheduling, and firing of personal care assistants according to the terms of the written agreement with the personal care assistance choice agency required under subdivision 20, paragraph (a). This program offers greater control and choice for the recipient in who provides the personal care assistance service and when the service is scheduled. The recipient or the recipient's responsible party must choose a personal care assistance choice provider agency as a fiscal intermediary. This personal care assistance choice provider agency manages payroll, invoices the state, is responsible for all payroll-related taxes and insurance, and is responsible for providing the consumer training and support in managing the recipient's personal care assistance services.

Sec. 9. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 19, is amended to read:

Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under personal care assistance choice, the recipient or responsible party shall:

(1) recruit, hire, schedule, and terminate personal care assistants ~~and a qualified professional~~ according to the terms of the written agreement required under subdivision 20, paragraph (a);

(2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;

(3) orient and train the personal care assistant with assistance as needed from the qualified professional;

(4) effective January 1, 2010, supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual face-to-face reassessment to determine continuing eligibility and service authorization; and

(7) use the same personal care assistance choice provider agency if shared personal assistance care is being used.

(b) The personal care assistance choice provider agency shall:

(1) meet all personal care assistance provider agency standards;

(2) enter into a written agreement with the recipient, responsible party, and personal care assistants;

(3) not be related as a parent, child, sibling, or spouse to the recipient, qualified professional, or the personal care assistant; and

(4) ensure arm's-length transactions without undue influence or coercion with the recipient and personal care assistant.

(c) The duties of the personal care assistance choice provider agency are to:

(1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including, but not limited to, purchasing and maintaining workers' compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including, but not limited to, workers' compensation and unemployment insurance;

(2) bill the medical assistance program for personal care assistance services and qualified professional services;

(3) request and complete background studies that comply with the requirements for personal care assistants and qualified professionals;

(4) pay the personal care assistant and qualified professional based on actual hours of services provided;

(5) withhold and pay all applicable federal and state taxes;

(6) verify and keep records of hours worked by the personal care assistant and qualified professional;

(7) make the arrangements and pay taxes and other benefits, if any, and comply with any legal requirements for a Minnesota employer;

(8) enroll in the medical assistance program as a personal care assistance choice agency; and

(9) enter into a written agreement as specified in subdivision 20 before services are provided.

Sec. 10. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 20, is amended to read:

Subd. 20. **Personal care assistance choice option; administration.** (a) Before services commence under the personal care assistance choice option, and annually thereafter, the personal care assistance choice provider agency, ~~recipient, or responsible party, each personal care assistant, and the qualified professional~~ and the recipient or responsible party shall enter into a written agreement. The annual agreement must be provided to the recipient or responsible party, each personal care assistant, and the qualified professional when completed, and include at a minimum:

(1) duties of the recipient, qualified professional, personal care assistant, and personal care assistance choice provider agency;

(2) salary and benefits for the personal care assistant and the qualified professional;

(3) administrative fee of the personal care assistance choice provider agency and services paid for with that fee, including background study fees;

(4) grievance procedures to respond to complaints;

(5) procedures for hiring and terminating the personal care assistant; and

(6) documentation requirements including, but not limited to, time sheets, activity records, and the personal care assistance care plan.

(b) Effective January 1, 2010, except for the administrative fee of the personal care assistance choice provider agency as reported on the written agreement, the remainder of the rates paid to the personal care assistance choice provider agency must be used to pay for the salary and benefits for the personal care assistant or the qualified professional. The provider agency must use a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits.

(c) The commissioner shall deny, revoke, or suspend the authorization to use the personal care assistance choice option if:

(1) it has been determined by the qualified professional or public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in this subdivision;

(3) the use of the option has led to abusive or fraudulent billing for personal care assistance services; or

(4) the department terminates the personal care assistance choice option.

(d) The recipient or responsible party may appeal the commissioner's decision in paragraph (c) according to section 256.045. The denial, revocation, or suspension to use the personal care assistance choice option must not affect the recipient's authorized level of personal care assistance services.

Sec. 11. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 21, is amended to read:

Subd. 21. **Requirements for initial enrollment of personal care assistance provider agencies.** (a) All personal care assistance provider agencies must provide, at the time of enrollment as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the provider's payments from Medicaid in the previous year, whichever is less;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) a description of the personal care assistance provider agency's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(6) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(7) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template for the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(8) a list of all trainings and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(9) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section;

(10) documentation of the agency's marketing practices;

(11) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services; ~~and~~

(12) documentation that the agency will use the following percentages of revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal care assistance choice option and 72.5 percent of revenue from other personal care assistance providers; and

(13) documentation that the agency does not burden recipients' free exercise of their right to choose service providers by requiring personal care assistants to sign an agreement not to work with any particular personal care assistance recipient or for another personal care assistance provider agency after leaving the agency.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning July 1, 2009.

(c) All personal care assistance provider agencies shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner before enrollment of the agency as a provider. Personal care assistance provider agencies are required to send all owners, qualified professionals employed by the agency, and all other managing employees to the initial and subsequent trainings. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. By September 1, 2010, the required training must be available in languages other than English and to those who need accommodations due to disabilities, online, or by electronic remote connection, and provide for competency testing. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective July 1, 2009. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of July 1, 2009. Any new owners, ~~new qualified professionals, and new managing~~ or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of ~~hiring~~ working for the agency. Personal care assistance provider agencies certified for participation in Medicare as home health agencies are exempt from the training required in this subdivision.

Sec. 12. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 27, is amended to read:

Subd. 27. **Personal care assistance provider agency; ~~ventilator training.~~** (a) The personal care assistance provider agency is required to provide training for the personal care assistant responsible for working with a recipient who is ventilator dependent. All training must be administered by a respiratory therapist, nurse, or physician. Qualified professional supervision by a nurse must be completed and documented on file in the personal care assistant's employment record and the recipient's health record. If offering personal care services to a ventilator-dependent recipient, the personal care assistance provider agency shall demonstrate and document the ability to:

(1) train the personal care assistant;

(2) supervise the personal care assistant in ~~ventilator operation and maintenance~~ the care of a ventilator-dependent recipient; ~~and~~

(3) supervise the recipient and responsible party in ~~ventilator operation and maintenance~~ the care of a ventilator-dependent recipient; and

(4) provide documentation of the training and supervision in clauses (1) to (3) upon request.

(b) A personal care assistant shall not undertake any clinical services, patient assessment, patient evaluation, or clinical education regarding the ventilator or the patient on the ventilator. These services may only be provided by health care professionals licensed or registered in this state.

(c) A personal care assistant may only perform tasks associated with ventilator maintenance that are approved by the Board of Medical Practice in consultation with the Respiratory Care Practitioner Advisory Council and the Department of Human Services.

(d) Personal care assistance provider agencies certified for participation in Medicare as home health agencies are exempt from providing the training required in this subdivision.

Sec. 13. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 30, is amended to read:

Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

(1) by October 31, 2009, information to recipients likely to be affected that (i) describes the changes to the personal care assistance program that may result in the loss of access to personal care assistance services, and (ii) includes resources to obtain further information; ~~and~~

(2) notice of changes in medical assistance home care services to each affected recipient at least 30 days before the effective date of the change.

The notice shall include how to get further information on the changes, how to get help to obtain other services, a list of community resources, and appeal rights. Notwithstanding section 256.045, a recipient may request continued services pending appeal within the time period allowed to request an appeal; and

(3) a service agreement authorizing personal care assistance hours of service at the previously authorized level, throughout the appeal process period, when a recipient requests services pending an appeal."

Delete the title and insert:

"A bill for an act relating to human services; making changes to continuing care policy and personal care assistance services; amending Minnesota Statutes 2008, sections 144A.071, subdivision 4b; 144A.161, subdivision 1a; 245A.03, by adding a subdivision; 256B.0911, subdivision 4d; 626.557, subdivision 9a; Minnesota Statutes 2009 Supplement, sections 144.0724, subdivision 11; 256B.0625, subdivision 19c; 256B.0651, by adding a subdivision; 256B.0652, subdivision 6; 256B.0653, subdivision 3; 256B.0659, subdivisions 1, 3, 4, 10, 11, 13, 14, 18, 19, 20, 21, 27, 30, by adding a subdivision; 256B.0911, subdivisions 1a, 2b, 3a, 3b."

The motion prevailed and the amendment was adopted.

Hosch moved to amend S. F. No. 2933, the first engrossment, as amended, as follows:

Page 5, line 20, after "of" insert "Level I"

Page 5, line 31, after "256B.0659" insert ", subdivision 4, paragraph (d) "

Page 8, line 8, after "245C" insert a comma

Page 18, line 6, after "waivers" insert "for individuals with disabilities"

Page 18, line 16, delete "ensuring" and insert "assuring"

Page 21, line 12, delete "or traveling to medical appointments"

Page 21, line 23, delete "ongoing" and insert "daily" and after "need" insert "or need on the days during the week the activity is completed"

Page 21, line 35, strike "gastro/jejunostomy" and insert "gastrojejunostomy"

Page 31, line 29, after "(13)" insert "effective the day following final enactment."

Page 31, line 32, after the second "agency" insert "and that the agency is not taking action on any such agreements or requirements regardless of the date signed"

Page 32, after line 24, insert:

"Sec. 12. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 24, is amended to read:

Subd. 24. **Personal care assistance provider agency; general duties.** A personal care assistance provider agency shall:

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;

(2) comply with general medical assistance coverage requirements;

(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;

(4) comply with background study requirements;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) ~~market agency services only through printed information in brochures and on Web sites and~~ not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;

(7) pay the personal care assistant and qualified professional based on actual hours of services provided;

(8) withhold and pay all applicable federal and state taxes;

(9) effective January 1, 2010, document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits;

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

- (11) enter into a written agreement under subdivision 20 before services are provided;
- (12) report suspected neglect and abuse to the common entry point according to section 256B.0651;
- (13) provide the recipient with a copy of the home care bill of rights at start of service; and
- (14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner."

Page 33, delete lines 14 to 16

Page 33, after line 32, insert:

"Sec. 15. Minnesota Statutes 2008, section 256B.092, subdivision 4d, is amended to read:

Subd. 4d. **Medicaid reimbursement; licensed provider; related individuals.** ~~The commissioner shall seek a federal amendment to the home and community-based services waiver for individuals with developmental disabilities, to allow Medicaid reimbursement for the provision of supported living services to a related individual is allowed when the following conditions have been met: specified in section 245A.03, subdivision 9, are met.~~

- ~~(1) the individual is 18 years of age or older;~~
- ~~(2) the provider is certified initially and annually thereafter, by the county, as meeting the provider standards established in chapter 245B and the federal waiver plan;~~
- ~~(3) the provider has been certified by the county as meeting the adult foster care provider standards established in Minnesota Rules, parts 9555.5105 to 9555.6265;~~
- ~~(4) the provider is not the legal guardian or conservator of the related individual; and~~
- ~~(5) the individual's service plan meets the standards of this section and specifies any special conditions necessary to prevent a conflict of interest for the provider.~~

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, section 256B.0919, subdivision 4, is repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Torkelson, Hamilton and Magnus moved to amend S. F. No. 2933, the first engrossment, as amended, as follows:

Page 17, after line 6, insert:

"Sec. 19. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 60. **Adjustment for low-payment rate facilities.** (a) For the rate year beginning October 1, 2011, the commissioner shall adjust operating payment rates for low-payment rate nursing facilities reimbursed under this section or section 256B.434 and licensed under chapter 144A, in accordance with this subdivision.

(b) The commissioner shall determine a value for an operating payment rate with a RUGS index of 1.00, such that the cost to increase the operating payment rate for all nursing facilities with operating payment rates less than that value by an amount equal to 50 percent of the difference between their operating payment rate with a RUGS index equal to 1.00 and the value determined under this paragraph not to exceed an increase of six percent of a facility's operating payment rate with a RUGS index equal to 1.00, does not exceed the amount appropriated for this purpose.

(c) Effective September 30, 2011, the commissioner shall identify all nursing facilities with operating payment rates with a RUGS index equal to 1.00, that are less than the value determined in paragraph (b).

(d) Effective September 30, 2011, the commissioner shall provide each nursing facility identified in paragraph (c) with an increase in their operating payment rate with a RUGS index of 1.00 that is equal to 50 percent of the difference between their operating payment rate with a RUGS index equal to 1.00, and the value determined in paragraph (b), but not to exceed an increase of six percent of the operating payment rate with a RUGS index equal to 1.00.

(e) The commissioner shall apportion the amount of the RUGS index equal to 1.00 computed in paragraph (d) between case mix and noncase mix per diems in proportion to the amounts in effect on September 30, 2011. The commissioner shall multiply the case mix portion by the RUGS indices and add the noncase mix portion to that product to determine the other RUGS operating rates.

(f) The rate adjustment provided in paragraph (d) shall be added after any nursing facility rate adjustments provided under this section or section 256B.434."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Hosch moved that S. F. No. 2933, as amended, be continued on the Calendar for the Day. The motion prevailed.

Sertich moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Lillie moved that the name of Obermueller be added as an author on H. F. No. 259. The motion prevailed.

Gunther moved that the name of Obermueller be added as an author on H. F. No. 567. The motion prevailed.

Lillie moved that the name of Scalze be added as an author on H. F. No. 978. The motion prevailed.

Gottwalt moved that the name of Obermueller be added as an author on H. F. No. 1196. The motion prevailed.

Marquart moved that the name of Loeffler be added as an author on H. F. No. 2227. The motion prevailed.

Hansen moved that the name of Hoppe be added as an author on H. F. No. 2882. The motion prevailed.

Atkins moved that the names of Newton and Abeler be added as authors on H. F. No. 2902. The motion prevailed.

Ruud moved that the name of Loeffler be added as an author on H. F. No. 3397. The motion prevailed.

Davnie moved that the names of Olin and Winkler be added as authors on H. F. No. 3467. The motion prevailed.

Sertich moved that the name of Obermueller be added as an author on H. F. No. 3606. The motion prevailed.

Loon moved that the name of Loeffler be added as an author on H. F. No. 3638. The motion prevailed.

Ruud moved that the name of Loeffler be added as an author on H. F. No. 3758. The motion prevailed.

Clark moved that the name of Laine be added as an author on H. F. No. 3781. The motion prevailed.

Beard moved that the name of Dill be added as an author on H. F. No. 3783. The motion prevailed.

Liebling moved that the names of Lenczewski and Newton be added as authors on H. F. No. 3785. The motion prevailed.

Nelson was excused for the remainder of today's session.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Sertich from the Committee on Rules and Legislative Administration to which was referred:

House Concurrent Resolution No. 5, A House concurrent resolution relating to adjournment for more than three days.

Reported the same back with the recommendation that the house concurrent resolution be adopted.

The report was adopted.

House Concurrent Resolution No. 5 was reported to the House.

HOUSE CONCURRENT RESOLUTION NO. 5

A House concurrent resolution relating to adjournment for more than three days.

Be It Resolved by the House of Representatives of the State of Minnesota, the Senate concurring:

1. Upon their adjournments on Wednesday, April 21, 2010, the House of Representatives and Senate may each set its next day of meeting for Monday, April 26, 2010. Upon their adjournments on Wednesday, April 28, 2010, the House of Representatives and Senate may each set its next day of meeting for Monday, May 3, 2010.

2. Each house consents to the adjournments of the other house for more than three days.

Sertich moved that House Concurrent Resolution No. 5 be now adopted. The motion prevailed and House Concurrent Resolution No. 5 was adopted.

MOTIONS AND RESOLUTIONS

Reinert moved that H. F. No. 2405 be recalled from the Committee on Rules and Legislative Administration and be re-referred to the Committee on Ways and Means. The motion prevailed.

FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Solberg announced his intention to place H. F. Nos. 3589, 2678, 2848 and 2801 on the Fiscal Calendar for Wednesday, April 21, 2010.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2639:

Johnson, Gardner and Hoppe.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3591:

Hornstein, Davnie and Kiffmeyer.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2437:

Hilstrom, Paymar and Holberg.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2519:

Hilstrom, Falk, Hortman, Jackson and Abeler.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2935:

Abeler, Lesch and Thao.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 3128:

Clark, Davnie and Gunther.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 9:00 a.m., Wednesday, April 21, 2010. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Hortman declared the House stands adjourned until 9:00 a.m., Wednesday, April 21, 2010.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives