

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2009

 FORTY-SIXTH DAY

SAINT PAUL, MINNESOTA, MONDAY, MAY 4, 2009

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 Chaplain Harry Olson, Pioneer Retirement Community, Fergus Falls, Minnesota.

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

The roll was called and the following members were present:

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

A quorum was present.

Mack was excused.

Howes was excused until 12:40 p.m. Newton was excused until 1:30 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Davnie 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. 140 and H. F. No. 84, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Mullery moved that S. F. No. 140 be substituted for H. F. No. 84 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 247 and H. F. No. 326, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Clark moved that the rules be so far suspended that S. F. No. 247 be substituted for H. F. No. 326 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 536 and H. F. No. 644, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Champion moved that the rules be so far suspended that S. F. No. 536 be substituted for H. F. No. 644 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 556 and H. F. No. 570, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Champion moved that the rules be so far suspended that S. F. No. 556 be substituted for H. F. No. 570 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1217 and H. F. No. 1293, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Loeffler moved that the rules be so far suspended that S. F. No. 1217 be substituted for H. F. No. 1293 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1399 and H. F. No. 1544, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Reinert moved that S. F. No. 1399 be substituted for H. F. No. 1544 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1425 and H. F. No. 1813, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Juhnke moved that the rules be so far suspended that S. F. No. 1425 be substituted for H. F. No. 1813 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1462 and H. F. No. 1554, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Winkler moved that the rules be so far suspended that S. F. No. 1462 be substituted for H. F. No. 1554 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1489 and H. F. No. 1501, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Westrom moved that S. F. No. 1489 be substituted for H. F. No. 1501 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 30, 2009

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 File:

H. F. No. 486, relating to transportation; highways; removing routes on the trunk highway system.

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 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

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

Sincerely,

MARK RITCHIE
Secretary of State

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 1, 2009

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. 334, relating to creditor remedies; modifying garnishment instructions, forms, procedures, and exemptions.

H. F. No. 801, relating to state government; modifying laws regarding state reports and documents.

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 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

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

Sincerely,

MARK RITCHIE
Secretary of State

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson from the Committee on Finance to which was referred:

H. F. No. 8, A bill for an act relating to state government; establishing the Minnesota False Claims Act; assessing penalties; proposing coding for new law as Minnesota Statutes, chapter 15C.

Reported the same back with the following amendments:

Page 2, line 10, before "(a)" insert:

"Subdivision 1. Liability."

Page 2, line 11, delete "\$5,500" and insert "\$5,000" and delete "\$11,000" and insert "\$10,000"

Page 2, line 28, after the semicolon, insert "or"

Page 2, delete lines 29 to 31

Page 2, line 32, delete "(8)" and insert "(7)"

Page 3, delete lines 14 to 16 and insert:

"Subd. 2. **Right to cure.** There shall be no action against any person under this section for inadvertence or mistake."

Page 7, line 13, delete "solely" and insert "in substantial part"

Page 8, after line 8, insert:

"Sec. 15. **[15C.15] DEPOSIT OF FUNDS.**

The net proceeds received by the state in an action under this chapter, after distributions to private plaintiffs, must be deposited in the state treasury as follows:

(1) an amount equal to the actual amount of damages that the state sustains because of an act specified in section 15C.02 must be deposited in the fund that sustained the damage;

(2) to the extent permitted under the Minnesota Constitution, any amount received by the state in excess of the amount specified in clause (1) must be deposited in the general fund."

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 702, A bill for an act relating to public safety; requiring the collection and reporting of specified summary data relating to decisions that affect a child's status within the juvenile justice system; proposing coding for new law in Minnesota Statutes, chapter 260B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **JUVENILE JUSTICE SYSTEM DECISION POINTS; STUDY REQUIRED.**

Subdivision 1. **Study required.** (a) The criminal and juvenile justice information policy group, consistent with the duties described in Minnesota Statutes, section 299C.65, shall study the feasibility of collecting and reporting summary data relating to the decisions that affect a child's status within the juvenile justice system. The policy group shall consult with the Department of Corrections, the Office of Justice Programs, and other relevant criminal justice agencies, juvenile justice stakeholders, and interested community groups. The Office of Justice Programs shall provide administrative support to the study.

(b) At a minimum, the study must consider:

(1) required data elements to be collected, such as age, gender, race, ethnicity, criminal charge, county of offense, and county of residence;

- (2) the decision points at which the data must be collected;
- (3) the criminal and juvenile justice agencies required to supply data;
- (4) who the repository entity for collected data should be;
- (5) the frequency of reporting;
- (6) the level of summary analysis;
- (7) a plan to implement the data collection, reporting, and analysis; and
- (8) the cost of implementing the plan.

Subd. 2. **Report required.** The commissioner of public safety shall submit the study described in subdivision 1 to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over juvenile justice policy by February 15, 2010."

Delete the title and insert:

"A bill for an act relating to public safety; requiring a study on the collection and reporting of summary data relating to decisions that affect a child's status within the juvenile justice system."

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. 804, A bill for an act relating to probate; modifying provisions governing guardians and conservators; amending Minnesota Statutes 2008, sections 260C.331, subdivision 1; 524.5-102, subdivision 7, by adding a subdivision; 524.5-112; 524.5-304; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-413; 524.5-414; 524.5-420; proposing coding for new law in Minnesota Statutes, chapter 524.

Reported the same back with the following amendments:

Page 3, delete section 4

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.

Lenczewski from the Committee on Taxes to which was referred:

H. F. No. 885, A bill for an act relating to taxation; making policy, technical, administrative, and clarifying changes to various taxes and tax-related provisions; amending Minnesota Statutes 2008, sections 16D.16, subdivision 2; 126C.21, subdivision 4; 126C.48, subdivision 8; 270B.14, subdivision 16; 270C.446, subdivisions 2, 5; 270C.56, subdivision 1; 273.11, subdivision 23; 273.111, subdivision 4; 273.1115, subdivision 2; 273.113, subdivisions 1, 2; 273.1231, subdivision 8; 273.124, subdivisions 13, 21; 273.13, subdivisions 23, 25, 33; 273.33, subdivision 2; 273.37, subdivision 2; 274.13, subdivision 2; 274.135, subdivision 3; 274.14; 274.175; 275.70, subdivision 5; 275.71, subdivision 4; 282.01, subdivisions 1, 1a, 1c, 1d, 2, 3, 4, 7, 7a, by adding a subdivision; 287.04; 287.05, by adding a subdivision; 287.22; 287.2205; 287.25; 289A.08, subdivision 3; 289A.12, by adding a subdivision; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.38, subdivision 7; 289A.41; 289A.60, by adding a subdivision; 290.01, subdivision 19b; 290.0671, subdivision 1; 290A.10; 290A.14; 290C.06; 290C.07; 295.56; 295.57, subdivision 5; 296A.21, subdivision 1; 297A.70, subdivisions 2, 4; 297A.992, subdivision 2; 297A.993, subdivision 1; 297E.02, subdivision 4; 297E.06, by adding a subdivision; 297E.11, subdivision 1; 297F.09, subdivision 7; 297G.09, subdivision 6; 297I.30, by adding a subdivision; 297I.35, subdivision 2; 298.28, subdivisions 4, 11; 473.843, subdivision 3; 477A.011, subdivisions 34, 42; 477A.013, subdivision 8; repealing Minnesota Statutes 2008, sections 282.01, subdivisions 1b, 9, 10, 11; 287.26; 287.27, subdivision 1; 297A.67, subdivision 24; 298.28, subdivisions 11a, 13; Minnesota Rules, parts 8009.3000; 8115.0200; 8115.0300; 8115.0400; 8115.0500; 8115.0600; 8115.1000; 8115.1100; 8115.1200; 8115.1300; 8115.1400; 8115.1500; 8115.1600; 8115.1700; 8115.1800; 8115.1900; 8115.2000; 8115.2100; 8115.2200; 8115.2300; 8115.2400; 8115.2500; 8115.2600; 8115.2700; 8115.2800; 8115.2900; 8115.3000; 8115.4000; 8115.4100; 8115.4200; 8115.4300; 8115.4400; 8115.4500; 8115.4600; 8115.4700; 8115.4800; 8115.4900; 8115.5000; 8115.5100; 8115.5200; 8115.5300; 8115.5400; 8115.5500; 8115.5600; 8115.5700; 8115.5800; 8115.5900; 8115.6000; 8115.6100; 8115.6200; 8115.6300; 8115.6400; 8115.9900.

Reported the same back with the following amendments:

Page 5, delete section 6

Page 5, delete section 7

Page 11, delete section 11

Page 14, lines 7 and 24, delete "5" and insert "11"

Page 17, line 12, reinstate the stricken "(a)" and reinstate the first stricken "or"

Page 26, line 24, delete "\$....." and insert "\$1,100,000."

Page 28, line 20, delete "and"

Page 28, line 21, delete "thereafter"

Page 29, line 1, delete "and"

Page 29, line 2, delete "thereafter"

Page 29, delete section 7

Page 35, line 32, delete "qualifies"

Page 35, line 33, delete "beginning with" and insert "may not qualify until"

Page 38, line 28, before the period, insert ". provided that the land is not located in a county that has elected to opt-out of the aggregate preservation program as provided in section 273.1115, subdivision 6"

Page 49, line 23, strike "which are levied against"

Page 49, line 24, delete the new language

Page 53, after line 17, insert:

"Sec. 21. Minnesota Statutes 2008, section 423A.02, subdivision 1b, is amended to read:

Subd. 1b. **Additional amortization state aid.** (a) Annually, on October 1, the commissioner of revenue shall allocate the additional amortization state aid transferred under section 69.021, subdivision 11, to:

(1) all police or salaried firefighters relief associations governed by and in full compliance with the requirements of section 69.77, that had an unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31;

(2) all local police or salaried firefighter consolidation accounts governed by chapter 353A that are certified by the executive director of the public employees retirement association as having for the current fiscal year an additional municipal contribution amount under section 353A.09, subdivision 5, paragraph (b), and that have implemented section 353A.083, subdivision 1, if the effective date of the consolidation preceded May 24, 1993, and that have implemented section 353A.083, subdivision 2, if the effective date of the consolidation preceded June 1, 1995; and

(3) the municipalities that are required to make an additional municipal contribution under section 353.665, subdivision 8, for the duration of the required additional contribution.

(b) The commissioner shall allocate the state aid on the basis of the proportional share of the relief association or consolidation account of the total unfunded actuarial accrued liability of all recipient relief associations and consolidation accounts as of December 31, 1993, for relief associations, and as of June 30, 1994, for consolidation accounts.

(c) Beginning October 1, 2000, and annually thereafter, the commissioner shall allocate the state aid, including any state aid in excess of the limitation in subdivision 4, on the following basis:

(1) 64.5 percent to the municipalities to which section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), apply for distribution in accordance with paragraph (b) and subject to the limitation in subdivision 4;

(2) 34.2 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Fire Department Relief Association; and

(3) 1.3 percent to the city of Virginia to fund any unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31 for the Virginia Fire Department Relief Association.

If there is no unfunded actuarial accrued liability in both the Minneapolis Police Relief Association and the Minneapolis Fire Department Relief Association as disclosed in the most recent actuarial valuations for the relief associations prepared under sections 356.215 and 356.216, the commissioner shall allocate that 34.2 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. If there is no unfunded actuarial accrued liability in the Virginia Fire Department Relief Association as disclosed in the most recent actuarial valuation for the relief association prepared under sections 356.215 and 356.216, the commissioner shall allocate that 1.3 percent of the aid as follows: 49 percent to the Teachers Retirement Association, 21 percent to the St. Paul Teachers Retirement Fund Association, and 30 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. Upon the final payment to municipalities required by section 353.665, subdivision 8, paragraph (b), or 353A.09, subdivision 5, paragraph (b), the commissioner shall allocate that 64.5 percent of the aid as follows: 20 percent to the St. Paul Teachers Retirement Fund Association, 20 percent to the city of Minneapolis to fund any unfunded actuarial accrued liability in the actuarial valuation proposed under sections 356.215 and 356.216 as of the preceding December 31 for the Minneapolis Police Relief Association or the Minneapolis Firefighters Relief Association, 20 percent for the city of Duluth to pay for any costs associated with the police and firefighters pensions, and 40 percent as additional funding to support minimum fire state aid for volunteer firefighters relief associations. The allocation must be made by the commissioner at the same time and under the same procedures as specified in subdivision 3. With respect to the St. Paul Teachers Retirement Fund Association, annually, beginning on July 1, 2005, if the applicable teacher's association five-year average time-weighted rate of investment return does not equal or exceed the performance of a composite portfolio assumed passively managed (indexed) invested ten percent in cash equivalents, 60 percent in bonds and similar debt securities, and 30 percent in domestic stock calculated using the formula under section 11A.04, clause (11), the aid allocation to that retirement fund under this section ceases until the five-year annual rate of investment return equals or exceeds the performance of that composite portfolio.

(d) The amounts required under this subdivision are the amounts annually appropriated to the commissioner of revenue under section 69.021, subdivision 11, paragraph (e).

EFFECTIVE DATE. This section is effective retroactively for fiscal year 2004, aid payable in 2003, and thereafter.

Sec. 22. Minnesota Statutes 2008, section 423A.02, subdivision 3, is amended to read:

Subd. 3. **Reallocation of amortization or supplementary amortization state aid.** (a) Seventy percent of the difference between \$5,720,000 and the current year amortization aid ~~or and~~ supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute 70 percent of the amounts derived under this paragraph to the Teachers Retirement Association and 30 percent to the St. Paul Teachers Retirement Fund Association to fund the unfunded actuarial accrued liabilities of the respective funds. These payments shall be made on or before June 30 each fiscal year. ~~The amount required under this paragraph is appropriated annually from the general fund to the commissioner of revenue. If the St. Paul Teachers Retirement Fund Association becomes fully funded, its eligibility for this aid ceases. Amounts remaining in the undistributed balance account at the end of the biennium if aid eligibility ceases cancel to the general fund.~~

(b) In order to receive amortization and supplementary amortization aid under paragraph (a), Independent School District No. 625, St. Paul, must make contributions to the St. Paul Teachers Retirement Fund Association in accordance with the following schedule:

Fiscal Year	Amount
1996	\$0
1997	\$0
1998	\$200,000
1999	\$400,000
2000	\$600,000
2001 and thereafter	\$800,000

(c) Special School District No. 1, Minneapolis, and the city of Minneapolis must each make contributions to the Teachers Retirement Association in accordance with the following schedule:

Fiscal Year	City amount	School district amount
1996	\$0	\$0
1997	\$0	\$0
1998	\$250,000	\$250,000
1999	\$400,000	\$400,000
2000	\$550,000	\$550,000
2001	\$700,000	\$700,000
2002	\$850,000	\$850,000
2003 and thereafter	\$1,000,000	\$1,000,000

(d) Money contributed under paragraph (a) and either paragraph (b) or (c), as applicable, must be credited to a separate account in the applicable teachers retirement fund and may not be used in determining any benefit increases. The separate account terminates for a fund when the aid payments to the fund under paragraph (a) cease.

(e) Thirty percent of the difference between \$5,720,000 and the current year amortization aid ~~or~~ and supplemental amortization aid under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried firefighter relief association must be distributed under section 69.021, subdivision 7, paragraph (d), as additional funding to support a minimum fire state aid amount for volunteer firefighter relief associations. ~~The amount required under this paragraph is appropriated annually to the commissioner of revenue.~~

EFFECTIVE DATE. This section is effective retroactively for fiscal year 2004, aid payable in 2003, and thereafter.

Sec. 23. Minnesota Statutes 2008, section 423A.02, is amended by adding a subdivision to read:

Subd. 3a. Appropriations for amortization aid, supplementary amortization state aid, and amortization state aid and supplementary state aid reallocations. \$4,720,000 is annually appropriated from the general fund to the commissioner of revenue for amortization state aid under subdivision 1 and for the reallocation of amortization aid under subdivision 3. \$1,000,000 is annually appropriated from the general fund to the commissioner of revenue for supplementary amortization state aid under subdivision 1a and for the reallocation of supplementary amortization state aid under subdivision 3.

EFFECTIVE DATE. This section is effective retroactively for fiscal year 2004, aid payable in 2003, and thereafter."

Page 55, line 23, delete "as provided in section 477A.011, subdivisions 3 and 35" and insert "for the levies used to calculate maximum increases and decreases under section 477A.013, subdivision 9, paragraphs (b), (c), and (d)"

Page 56, delete article 5

Page 68, delete section 1

Page 69, after line 18, insert:

"Sec. 2. Minnesota Statutes 2008, section 270C.12, is amended by adding a subdivision to read:

Subd. 5. Duration. Notwithstanding the provisions of any statutes to the contrary, including section 15.059, the coordinating committee as established by this section to oversee and coordinate preparation of the microdata samples of income tax returns and other information does not expire.

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

Renumber the sections and articles in sequence

Amend the title as follows:

Page 1, line 3, after "to" insert "income, corporate franchise, estate, sales, use, minerals, mortgage, property, gross receipts, gambling, cigarette, tobacco, liquor, insurance, and" and after the semicolon, insert "modifying local government aid and tax data provision; appropriating money;"

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. 1213, A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; amending Minnesota Statutes 2008, sections 609.321, by adding a subdivision; 609.324, subdivisions 2, 3.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1270, A bill for an act relating to corrections; requiring development of pilot project for short-term offender commitments; authorizing county or community corrections departments to develop pilot-project for short-term offender commitments; providing for reports.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Lenczewski from the Committee on Taxes to which was referred:

H. F. No. 1298, A bill for an act relating to public finance; providing terms and conditions relating to issuance of obligations and financing of public improvements; modifying restrictions on mail elections; amending Minnesota Statutes 2008, sections 204B.46; 360.036, subdivision 2; 366.095, subdivision 1; 373.01, subdivision 3; 373.40, subdivision 1; 373.47, subdivision 1; 375.18, subdivision 3; 383B.117, subdivision 2; 410.32; 412.301; 428A.02, subdivision 1; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 469.005, subdivision 1; 469.034, subdivision 2; 469.040, subdivisions 1, 2, 4; 471.191, subdivision 1; 475.67, subdivision 8; repealing Minnesota Statutes 2008, sections 428A.101; 428A.21.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[16A.647] TAX CREDIT AND INTEREST SUBSIDY BONDS.**

Subdivision 1. **Authority to issue.** When authorized by law to issue state general obligation bonds, the commissioner may issue all or part of the bonds as tax credit bonds or as interest subsidy bonds or a combination of the two.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Tax credit bonds" means bonds, the interest on which is includable in the income of the owner of the bonds for federal income tax purposes, but for which the owner is entitled to a federal tax credit.

(c) "Interest subsidy bonds" means bonds, the interest on which is includable in the income of the owner of the bonds for federal income tax purposes, but for which the issuer is entitled to federal interest subsidy payments based on a percentage of the interest payable on the interest subsidy bonds.

Subd. 3. **Method of sale.** Notwithstanding the provisions of section 16A.641, subdivision 4, the commissioner may sell any series of tax credit bonds or interest subsidy bonds at negotiated sale upon the terms and conditions and the restrictions the commissioner prescribes. The commissioner may contract for investment banking and banking services only after receiving competitive proposals for the services. The commissioner may enter into all contracts deemed necessary or desirable to accomplish the sale in a cost-effective manner.

Subd. 4. **Sinking fund.** The commissioner's order authorizing the issuance of interest subsidy bonds must establish a separate sinking fund account for the interest subsidy bonds in the state bond fund. There is annually appropriated, as received, to each interest subsidy bond account, in addition to amounts appropriated under section 16A.641, the interest subsidy payments received from the federal government with respect to that issue of interest subsidy bonds in that year.

Subd. 5. **Sale.** Tax credit bonds and interest subsidy bonds must be sold at a price not less than 98 percent of their stated principal amount. No state trunk highway bond may be sold for a price of less than par and accrued interest.

Sec. 2. Minnesota Statutes 2008, section 37.31, subdivision 1, is amended to read:

Subdivision 1. **Bonding authority.** The society may issue negotiable bonds in a principal amount that the society determines necessary to provide sufficient money for achieving its purposes, including the payment of interest on bonds of the society, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the society incident to and necessary or convenient to carry out its corporate purposes and powers. Bonds of the society may be issued as bonds or notes or in any other form authorized by law. ~~The principal amount of bonds issued and outstanding under this section at any time may not exceed \$20,000,000, excluding bonds for which refunding bonds or crossover refunding bonds have been issued.~~

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

Sec. 3. Minnesota Statutes 2008, section 37.31, subdivision 7, is amended to read:

Subd. 7. **Approval Notification; commissioner of finance.** ~~Before~~ Within 30 days after issuing and selling bonds under this section, the society must ~~obtain the approval~~ notify, in writing, ~~of the commissioner of finance of the date of issuance, principal amount, true interest cost, final maturity date of the issue, and credit rating as applicable.~~

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

Sec. 4. Minnesota Statutes 2008, section 37.33, subdivision 3, is amended to read:

Subd. 3. **Investment.** Money in a debt service reserve fund not required for immediate use may be invested in accordance with section ~~37.07~~ 37.34.

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

Sec. 5. Minnesota Statutes 2008, section 37.34, is amended to read:

37.34 MONEY OF THE SOCIETY.

The society may contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of money of the society or money held in trust or otherwise for the payment of bonds, and to carry out the contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the money may be invested in accordance with chapter 118A and may be secured in the same manner as money of the society, and all banks and trust companies are authorized to give security for the deposits.

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

Sec. 6. Minnesota Statutes 2008, section 126C.55, subdivision 4, is amended to read:

Subd. 4. **Pledge of district's full faith and credit.** If, at the request of a school district or intermediate school district, the state has paid part or all of the principal or interest due on a district's debt obligation on a specific date, the pledge of the full faith and credit and unlimited taxing powers of the school district or the member districts of the intermediate district to repay the principal and interest due on those debt obligations shall also, without an election or the requirement of a further authorization, become a pledge of the full faith and credit and unlimited taxing powers of the school district or the member districts of the intermediate district to repay to the state the amount paid, with interest. Amounts paid by the state must be repaid in the order in which the state payments were made. Whenever the state pays under this section interest on bonds for which the issuer is entitled to federal interest subsidy payments, the state is subrogated to the issuer's rights to any federal interest subsidy payments relating to the interest paid by the state, unless and until the state has been reimbursed by the issuer in full.

Sec. 7. Minnesota Statutes 2008, section 204B.46, is amended to read:

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. ~~No more than two questions may be submitted at a mail election and no offices may be voted on at a mail election.~~ Notice of the election must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. No earlier than 20 or later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B.

Sec. 8. Minnesota Statutes 2008, section 275.065, subdivision 6, is amended to read:

Subd. 6. **Public hearing; adoption of budget and levy.** (a) For purposes of this section, the following terms shall have the meanings given:

(1) "Initial hearing" means the first and primary hearing held to discuss the taxing authority's proposed budget and proposed property tax levy for taxes payable in the following year, or, for school districts, the current budget and the proposed property tax levy for taxes payable in the following year.

(2) "Continuation hearing" means a hearing held to complete the initial hearing, if the initial hearing is not completed on its scheduled date.

(3) "Subsequent hearing" means the hearing held to adopt the taxing authority's final property tax levy, and, in the case of taxing authorities other than school districts, the final budget, for taxes payable in the following year.

(b) Between November 29 and December 20, the governing bodies of a city that has a population over 500, county, metropolitan special taxing districts as defined in subdivision 3, paragraph (i), and regional library districts shall each hold an initial public hearing to discuss and seek public comment on its final budget and property tax levy for taxes payable in the following year, and the governing body of the school district shall hold an initial public hearing to review its current budget and proposed property tax levy for taxes payable in the following year. The metropolitan special taxing districts shall be required to hold only a single joint initial public hearing, the location of which will be determined by the affected metropolitan agencies. A city, county, metropolitan special taxing district as defined in subdivision 3, paragraph (i), regional library district established under section 134.201, or school district is not required to hold a public hearing under this subdivision unless its proposed property tax levy for taxes payable in the following year, as certified under subdivision 1, has increased over its final property tax levy for taxes payable in the current year by a percentage that is greater than the percentage increase in the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysts of the United States Department of Commerce for the 12-month period ending March 31 of the current year.

(c) The initial hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No initial hearing may be held on a Sunday.

(d) At the initial hearing under this subdivision, the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions. At the public hearing, the school district must also provide and discuss information on the distribution of its revenues by revenue source, and the distribution of its spending by program area.

(e) If the initial hearing is not completed on its scheduled date, the taxing authority must announce, prior to adjournment of the hearing, the date, time, and place for the continuation of the hearing. The continuation hearing must be held at least five business days but no more than 14 business days after the initial hearing. A continuation hearing may not be held later than December 20 except as provided in paragraphs (f) and (g). A continuation hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No continuation hearing may be held on a Sunday.

(f) The governing body of a county shall hold its initial hearing on the first Thursday in December each year, and may hold additional initial hearings on other dates before December 20 if necessary for the convenience of county residents. If the county needs a continuation of its hearing, the continuation hearing shall be held on the third Tuesday in December. If the third Tuesday in December falls on December 21, the county's continuation hearing shall be held on Monday, December 20.

(g) The metropolitan special taxing districts shall hold a joint initial public hearing on the first Wednesday of December. A continuation hearing, if necessary, shall be held on the second Wednesday of December even if that second Wednesday is after December 10.

(h) The county auditor shall provide for the coordination of initial and continuation hearing dates for all school districts and cities within the county to prevent conflicts under clauses (i) and (j).

(i) By August 10, each school board and the board of the regional library district shall certify to the county auditors of the counties in which the school district or regional library district is located the dates on which it elects to hold its initial hearing and any continuation hearing. If a school board or regional library district does not certify these dates by August 10, the auditor will assign the initial and continuation hearing dates. The dates elected or assigned must not conflict with the initial and continuation hearing dates of the county or the metropolitan special taxing districts.

(j) By August 20, the county auditor shall notify the clerks of the cities within the county of the dates on which school districts and regional library districts have elected to hold their initial and continuation hearings. At the time a city certifies its proposed levy under subdivision 1 it shall certify the dates on which it elects to hold its initial hearing and any continuation hearing. Until September 15, the first and second Mondays of December are reserved for the use of the cities. If a city does not certify its hearing dates by September 15, the auditor shall assign the initial and continuation hearing dates. The dates elected or assigned for the initial hearing must not conflict with the initial hearing dates of the county, metropolitan special taxing districts, regional library districts, or school districts within which the city is located. To the extent possible, the dates of the city's continuation hearing should not conflict with the continuation hearing dates of the county, metropolitan special taxing districts, regional library districts, or school districts within which the city is located. This paragraph does not apply to cities of 500 population or less.

(k) The county initial hearing date and the city, metropolitan special taxing district, regional library district, and school district initial hearing dates must be designated on the notices required under subdivision 3. The continuation hearing dates need not be stated on the notices.

(l) At a subsequent hearing, each county, school district, city over 500 population, and metropolitan special taxing district may amend its proposed property tax levy and must adopt a final property tax levy. Each county, city over 500 population, and metropolitan special taxing district may also amend its proposed budget and must adopt a final budget at the subsequent hearing. The final property tax levy must be adopted prior to adopting the final budget. A school district is not required to adopt its final budget at the subsequent hearing. The subsequent hearing of a taxing authority must be held on a date subsequent to the date of the taxing authority's initial public hearing. If a continuation hearing is held, the subsequent hearing must be held either immediately following the continuation hearing or on a date subsequent to the continuation hearing. The subsequent hearing may be held at a regularly scheduled board or council meeting or at a special meeting scheduled for the purposes of the subsequent hearing. The subsequent hearing of a taxing authority does not have to be coordinated by the county auditor to prevent a conflict with an initial hearing, a continuation hearing, or a subsequent hearing of any other taxing authority. All subsequent hearings must be held prior to five working days after December 20 of the levy year. The date, time, and place of the subsequent hearing must be announced at the initial public hearing or at the continuation hearing.

(m) The property tax levy certified under section 275.07 by a city of any population, county, metropolitan special taxing district, regional library district, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 123B.63, subdivision 3, or 126C.17, subdivision 9, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a;

(6) the amount of an increase in levy limits certified to the taxing authority by the commissioner of education or the commissioner of revenue after the proposed levy was certified; ~~and~~

(7) the amount required under section 126C.55; and

(8) the levy to pay emergency debt certificates under section 475.755 authorized and issued after the proposed levy was certified.

(n) This subdivision does not apply to towns and special taxing districts other than regional library districts and metropolitan special taxing districts.

(o) Notwithstanding the requirements of this section, the employer is required to meet and negotiate over employee compensation as provided for in chapter 179A.

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

Sec. 9. Minnesota Statutes 2008, section 360.036, subdivision 2, is amended to read:

Subd. 2. **Issuance of bonds.** (a) Bonds to be issued by a municipality under sections 360.011 to 360.076, shall be authorized and issued in the manner and within the limitation prescribed by laws or the charter of the municipality for the issuance and authorization of bonds for public purposes generally, except as provided in paragraphs (b) and (c).

(b) No election is required to authorize the issuance of the bonds if:

(1) a board organized under section 360.042 recommends by a resolution adopted by a vote of not less than 60 percent of its members the issuance of bonds, and the bonds are authorized by a resolution of the governing body of each of the municipalities acting jointly pursuant to section 360.042, adopted by a vote of not less than 60 percent of its members; or

(2) the bonds are authorized by a resolution of the governing body of the municipality, adopted by a vote of not less than 60 percent of its members; or

(3) the bonds are being issued for the purpose of financing the costs of constructing, enlarging, or improving airports and other air navigation facilities; and

(i) the governing body estimates that passenger facility charges and other revenues pledged to the payment thereof will be at least 20 percent of the debt service payable on the bonds in any year;

(ii) the project will be funded in part by a state or federal grant for airport development; and

(iii) the principal amount of the bonds issued under this clause does not exceed 25 percent of the amount of the state or federal grant.

(c) If the bonds are general obligations of the municipality, the levy of taxes required by section 475.61 to pay principal and interest on the bonds is not included in computing or applying any levy limitation applicable to the municipality.

Sec. 10. Minnesota Statutes 2008, section 366.095, subdivision 1, is amended to read:

Subdivision 1. **Certificates of indebtedness.** The town board may issue certificates of indebtedness within the debt limits for a town purpose otherwise authorized by law. The certificates shall be payable in not more than ~~five~~ ten years and be issued on the terms and in the manner as the board may determine. If the amount of the certificates to be issued exceeds 0.25 percent of the market value of the town, they shall not be issued for at least ten days after publication in a newspaper of general circulation in the town of the board's resolution determining to issue them. If within that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, the certificates shall not be issued until their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made to pay the principal and interest on the certificates as in the case of bonds.

Sec. 11. Minnesota Statutes 2008, section 373.01, subdivision 3, is amended to read:

Subd. 3. **Capital notes.** (a) A county board may, by resolution and without referendum, issue capital notes subject to the county debt limit to purchase capital equipment useful for county purposes that has an expected useful life at least equal to the term of the notes. The notes shall be payable in not more than ten years and shall be issued on terms and in a manner the board determines. A tax levy shall be made for payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds.

(b) For purposes of this subdivision, "capital equipment" means:

(1) public safety, ambulance, road construction or maintenance, ~~and~~ medical equipment, and other capital equipment; and

(2) computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software and fiber-optic cable or other means of voice and data transmission among municipal buildings, provided that software, application, and development services and training shall be deemed to have the same useful life as the computer equipment to which they are related.

Sec. 12. Minnesota Statutes 2008, section 373.40, subdivision 1, is amended to read:

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

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, qualified indoor ice arena, roads and bridges, public works facilities, fairgrounds buildings, fiber-optic cable or other means of voice and data transmission among municipal buildings, and the acquisition of development rights in the form of conservation easements under chapter 84C. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.

(c) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(d) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

- (1) the federal decennial census,
- (2) a special census conducted under contract by the United States Bureau of the Census, or
- (3) a population estimate made either by the Metropolitan Council or by the state demographer under section 4A.02.

(e) "Qualified indoor ice arena" means a facility that meets the requirements of section 373.43.

(f) "Tax capacity" means total taxable market value, but does not include captured market value.

Sec. 13. Minnesota Statutes 2008, section 373.47, subdivision 1, is amended to read:

Subdivision 1. **Authority to incur debt.** Subject to prior approval by the Statewide Radio Board under section 403.36, the governing body of a county may finance the cost of designing, constructing, and acquiring public safety communication system infrastructure and equipment for use on the statewide, shared public safety radio system by issuing:

(1) capital improvement bonds under section 373.40, as if the infrastructure and equipment qualified as a "capital improvement" within the meaning of section 373.40, subdivision 1, paragraph (b), bonds issued under this section are exempt from and shall not be included in calculating the limitations in section 373.40, subdivision 4; and

(2) capital notes under the provisions of section 373.01, subdivision 3, as if the equipment qualified as "capital equipment" within the meaning of section 373.01, subdivision 3.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to bonds issued after May 22, 2002.

Sec. 14. Minnesota Statutes 2008, section 373.48, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purpose of this section, "project" means a facility that generates electricity from renewable energy sources listed in section 216B.1691, subdivision 1, paragraph (a), ~~clause (1).~~

Sec. 15. Minnesota Statutes 2008, section 373.48, is amended by adding a subdivision to read:

Subd. 3. Joint purchase of energy and acquisition of generation projects; financing. (a) A county may enter into agreements under section 471.59 with other counties for joint purchase of energy or joint acquisition of interests in projects. A county may annually levy an ad valorem tax for the purpose of paying the cost of energy purchased or acquiring interests in projects in an amount not exceeding 0.015 percent of the market value of taxable property in the county. A county that enters into a multiyear agreement for purchase of energy or acquires an interest in a project, including C-BED projects pursuant to section 216B.1612, subdivision 9, may finance the estimated cost of the energy to be purchased during the term of the agreement or the cost to the county of the interest in the project by the issuance of general obligation bonds of the county, including clean renewable energy bonds, provided that the annual debt service on all bonds issued under this section, together with the amounts to be paid by the county in any year for the purchase of energy under agreements entered into under this section, must not exceed the amount of taxes authorized by this section.

(b) An agreement entered into under section 471.59 as provided by this section may provide that:

(1) each county shall issue bonds to pay their respective shares of the cost of the projects;

(2) one of the counties shall issue bonds to pay the full costs of the project and that the other participating counties shall levy the tax authorized under this subdivision and pledge the collections of the tax to the county that issues the bonds; or

(3) the joint powers board shall issue revenue bonds to pay the full costs of the project and that the participating counties shall levy the tax authorized under this subdivision and pledge the collections of the tax to the joint powers entity for payment of the revenue bonds.

(c) Bonds issued under this section may be issued without an election and shall not constitute net debt of any participating county.

Sec. 16. Minnesota Statutes 2008, section 383B.117, subdivision 2, is amended to read:

Subd. 2. **Equipment acquisition; capital notes.** The board may, by resolution and without public referendum, issue capital notes within existing debt limits for the purpose of purchasing ambulance and other medical equipment, road construction or maintenance equipment, public safety equipment and other capital equipment having an expected useful life at least equal to the term of the notes issued. The notes shall be payable in not more than ten years and shall be issued on terms and in a manner as the board determines. The total principal amount of the notes issued for any fiscal year shall not exceed one percent of the total annual budget for that year and shall be issued solely for the purchases authorized in this subdivision. A tax levy shall be made for the payment of the principal and interest on such notes as in the case of bonds. For purposes of this subdivision, "equipment" includes computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software and fiber-optic cable or other means of voice and data transmission among municipal buildings, provided that software, application, and development services and training shall be deemed to have the same useful life as the computer equipment to which they are related. For purposes of this subdivision, the term "medical equipment" includes computer hardware and software and other intellectual property for use in medical diagnosis, medical procedures, research, record keeping, billing, and other hospital applications, together with application development services and training related to the use of the computer hardware and software and other intellectual property, all without regard to their useful life. For purposes of determining the amount of capital notes which the county may issue in any year, the budget of the county and Hennepin Healthcare System, Inc. shall be combined and the notes issuable under this subdivision shall be in addition to obligations issuable under section 373.01, subdivision 3.

Sec. 17. Minnesota Statutes 2008, section 410.32, is amended to read:

410.32 CITIES MAY ISSUE CAPITAL NOTES FOR CAPITAL EQUIPMENT.

(a) Notwithstanding any contrary provision of other law or charter, a home rule charter city may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; and

(2) computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software and fiber-optic cable or other means of voice and data transmission among municipal buildings, provided that software, application, and development services and training shall be deemed to have the same useful life as the computer equipment to which they are related.

(c) The capital equipment ~~or software~~ must have an expected useful life at least as long as the term of the notes.

(d) The notes shall be payable in not more than ten years and be issued on terms and in the manner the city determines. The total principal amount of the capital notes issued in a fiscal year shall not exceed 0.03 percent of the market value of taxable property in the city for that year.

(e) A tax levy shall be made for the payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds.

(f) Notes issued under this section shall require an affirmative vote of two-thirds of the governing body of the city.

(g) Notwithstanding a contrary provision of other law or charter, a home rule charter city may also issue capital notes subject to its debt limit in the manner and subject to the limitations applicable to statutory cities pursuant to section 412.301.

Sec. 18. Minnesota Statutes 2008, section 412.301, is amended to read:

412.301 FINANCING PURCHASE OF CERTAIN EQUIPMENT.

(a) The council may issue certificates of indebtedness or capital notes subject to the city debt limits to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; and

(2) computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software and fiber-optic cable or other means of voice and data transmission among municipal buildings, provided that software, application, and development services and training shall be deemed to have the same useful life as the computer equipment to which they are related.

(c) The capital equipment ~~or software~~ must have an expected useful life at least as long as the terms of the certificates or notes.

(d) Such certificates or notes shall be payable in not more than ten years and shall be issued on such terms and in such manner as the council may determine.

(e) If the amount of the certificates or notes to be issued to finance any such purchase exceeds 0.25 percent of the market value of taxable property in the city, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates or notes shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election.

(f) A tax levy shall be made for the payment of the principal and interest on such certificates or notes, in accordance with section 475.61, as in the case of bonds.

Sec. 19. Minnesota Statutes 2008, section 428A.03, subdivision 1, is amended to read:

Subdivision 1. **Hearing.** Service charges may be imposed by the city within the special service district at a rate or amount sufficient to produce the revenues required to provide special services in the district. To determine the appropriate rate for a service charge based on net tax capacity, taxable property or net tax capacity must be determined without regard to captured or original net tax capacity under section 469.177 or to the distribution or contribution value under section 473F.08. Service charges may not be imposed to finance a special service if the service is ordinarily provided by the city from its general fund revenues unless the service is provided in the district at an increased level. In that case, a service charge may be imposed only in the amount needed to pay for the increased level of service. A service charge may not be imposed on the receipts from the sale of intoxicating liquor, food, or lodging. Before the imposition of service charges in a district, for each calendar year, a hearing must be held under section 428A.02 and notice must be given and must be mailed to any owner, individual, or business organization subject to a service charge. For purposes of this section, the notice shall also include:

(1) a statement that all interested persons will be given an opportunity to be heard at the hearing regarding a proposed service charge;

(2) the estimated cost of improvements to be paid for in whole or in part by service charges imposed under this section, the estimated cost of operating and maintaining the improvements during the first year and upon completion of the improvements, the proposed method and source of financing the improvements, and the annual cost of operating and maintaining the improvements;

(3) the proposed rate or amount of the proposed service charge to be imposed in the district during the calendar year and the nature and character of special services to be rendered in the district during the calendar year in which the service charge is to be collected; and

(4) a statement that the petition requirements of section 428A.08 have either been met or do not apply to the proposed service charge.

Within six months of the public hearing, the city may adopt a resolution imposing a service charge within the district not exceeding the amount or rate expressed in the notice issued under this section.

Sec. 20. Minnesota Statutes 2008, section 428A.08, is amended to read:

428A.08 PETITION REQUIRED.

No action may be taken under section 428A.02 or 428A.03, unless owners of 25 percent or more of the land area of property that would be subject to service charges in the proposed special service district and either: (1) owners of 25 percent or more of the net tax capacity of property that would be subject to a proposed service charges in the proposed special service district charge, based on net tax capacity; or (2) owners, individuals, and business organizations subject to 25 percent or more of a proposed service charge based on other than net tax capacity file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken under section 428A.03 to impose a service charge based on net tax capacity unless owners of 25 percent or more of the land area subject to a proposed service charge and owners of 25 percent or more of the net tax capacity subject to a proposed service charge file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken under section 428A.03 to impose any other type of service charge unless 25 percent or more of the individual or business organizations subject to the proposed service charge file a petition requesting a public hearing on the proposed action with the city clerk. If the boundaries of a proposed district are changed or the land area or net tax capacity subject to a service charge or the individuals or business organizations subject to a service charge are changed after the public hearing, a petition meeting the requirements of this section must be filed with the city clerk before the ordinance establishing the district or resolution imposing the service charge may become effective.

Sec. 21. Minnesota Statutes 2008, section 428A.09, is amended to read:

428A.09 VETO POWER OF OWNERS.

Subdivision 1. **Notice of right to file objections.** Except as provided in section 428A.10, the effective date of any ordinance or resolution adopted under sections 428A.02 and 428A.03 must be at least 45 days after it is adopted. Within five days after adoption of the ordinance or resolution, a summary of the ordinance or resolution must be mailed to the owner of each parcel included in the special service district and any individual or business organization subject to a service charge in the same manner that notice is mailed under section 428A.02. The mailing must include a notice that owners subject to a service charge based on net tax capacity and owners, individuals, and business organizations subject to a service charge imposed on another basis have a right to veto the ordinance or resolution by filing the required number of objections with the city clerk before the effective date of the ordinance or resolution and that a copy of the ordinance or resolution is on file with the city clerk for public inspection.

Subd. 2. **Requirements for veto.** If owners of 35 percent or more of the land area in the district subject to the service charge based on net tax capacity or owners of, individuals, and business organizations subject to 35 percent or more of the net tax capacity in the district subject to the service charge based on net tax capacity service charges to be imposed in the district, file an objection to the ordinance adopted by the city under section 428A.02 with the city clerk before the effective date of the ordinance, the ordinance does not become effective. If owners of 35 percent or more of the land area subject to the service charge based on net tax capacity or owners of 35 percent or more of the net tax capacity subject to the service charge based on net tax capacity file an objection to the resolution adopted imposing a service charge based on net tax capacity under section 428A.03 with the city clerk before the effective date of the resolution, the resolution does not become effective. If 35 percent or more of owners, individuals, and business organizations subject to a 35 percent or more of the service charge charges to be imposed in the district file an objection to the resolution adopted imposing a service charge on a basis other than net tax capacity under section 428A.03 with the city clerk before the effective date of the resolution, the resolution does not become effective. In the event of a veto, no district shall be established during the current calendar year and until a petition meeting the qualifications set forth in this subdivision for a veto has been filed.

Sec. 22. Minnesota Statutes 2008, section 428A.10, is amended to read:

428A.10 EXCLUSION FROM PETITION REQUIREMENTS AND VETO POWER.

The petition requirements of section 428A.08 and do not apply to second or subsequent years' action to impose service charges under section 428A.03. The right of owners and those subject to a service charge to veto a resolution in section 428A.09 do does not apply to second or subsequent years' applications of a service charge that is authorized to be in effect for more than one year under a resolution that has met the petition requirements of section 428A.08 and which has not been vetoed under section 428A.09 for the first year's application. A resolution imposing a service charge for more than one year must not be adopted unless the notice of public hearing required by section 428A.03 and the notice mailed with the adopted resolution under section 428A.09 include the following information:

(1) in the case of improvements, the maximum service charge to be imposed in any year and the maximum number of years the service ~~charges~~ charge is imposed to pay for the improvement; and

(2) in the case of operating and maintenance services, the maximum service charge to be imposed in any year and the maximum number of years, or a statement that the service charge will be imposed for an indefinite number of years, the service charges will be imposed to pay for operation and maintenance services.

The resolution may provide that the maximum service charge to be imposed in any year will increase or decrease from the maximum amount authorized in the preceding year based on an indicator of increased cost or a percentage amount established by the resolution.

Sec. 23. Minnesota Statutes 2008, section 428A.101, is amended to read:

428A.101 DEADLINE FOR SPECIAL SERVICE DISTRICT UNDER GENERAL LAW.

The establishment of a new special service district after June 30, ~~2009~~ 2013, requires enactment of a special law authorizing the establishment.

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

Sec. 24. Minnesota Statutes 2008, section 428A.21, is amended to read:

428A.21 DEADLINE FOR HOUSING IMPROVEMENT DISTRICTS UNDER GENERAL LAW.

The establishment of a new housing improvement area after June 30, ~~2009~~ 2012, requires enactment of a special law authorizing the establishment of the area.

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

Sec. 25. Minnesota Statutes 2008, section 446A.086, is amended by adding a subdivision to read:

Subd. 12. Federal interest subsidy payments. Whenever the state pays under this section interest on bonds for which the issuer is entitled to federal interest subsidy payments, the state is subrogated to the issuer's rights to any federal interest subsidy payments relating to the interest paid by the state, unless and until the state has been reimbursed by the issuer in full.

Sec. 26. Minnesota Statutes 2008, section 469.005, subdivision 1, is amended to read:

Subdivision 1. **County and multicounty authorities.** The area of operation of a county authority shall include all of the county for which it is created, and in case of a multicounty authority, it shall include all of the political subdivisions for which the multicounty authority is created; provided, that a county authority or a multicounty authority shall not undertake any project within the boundaries of any city which has not empowered the authority to function therein as provided in section 469.004 unless a resolution has been adopted by the governing body of the city, ~~and by any authority which has been established in the city,~~ declaring that there is a need for the county or multicounty authority to exercise its powers in the city. A resolution is not required for the operation of a Section 8 program or a public housing scattered site project.

Sec. 27. Minnesota Statutes 2008, section 469.034, subdivision 2, is amended to read:

Subd. 2. **General obligation revenue bonds.** (a) An authority may pledge the general obligation of the general jurisdiction governmental unit as additional security for bonds payable from income or revenues of the project or the authority. The authority must find that the pledged revenues will equal or exceed 110 percent of the principal and interest due on the bonds for each year. The proceeds of the bonds must be used for a qualified housing development project or projects. The obligations must be issued and sold in the manner and following the procedures provided by chapter 475, except the obligations are not subject to approval by the electors, and the maturities may extend to not more than 35 years for obligations sold to finance housing for the elderly and 40 years for other obligations issued under this subdivision. The authority is the municipality for purposes of chapter 475.

(b) The principal amount of the issue must be approved by the governing body of the general jurisdiction governmental unit whose general obligation is pledged. Public hearings must be held on issuance of the obligations by both the authority and the general jurisdiction governmental unit. The hearings must be held at least 15 days, but not more than 120 days, before the sale of the obligations.

(c) The maximum amount of general obligation bonds that may be issued and outstanding under this section equals the greater of (1) one-half of one percent of the taxable market value of the general jurisdiction governmental unit whose general obligation is pledged, or (2) \$3,000,000. In the case of county or multicounty general obligation bonds, the outstanding general obligation bonds of all cities in the county or counties issued under this subdivision must be added in calculating the limit under clause (1).

(d) "General jurisdiction governmental unit" means the city in which the housing development project is located. In the case of a county or multicounty authority, the county or counties may act as the general jurisdiction governmental unit. In the case of a multicounty authority, the pledge of the general obligation is a pledge of a tax on the taxable property in each of the counties.

(e) "Qualified housing development project" means a housing development project providing housing either for the elderly or for individuals and families with incomes not greater than 80 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the standard metropolitan statistical area or the nonmetropolitan county in which the project is located. The project must be owned for the term of the bonds either by the authority or by a limited partnership or other entity in which the authority or another entity under the sole control of the authority is the sole general partner and the partnership or other entity must receive (1) an allocation from the Department of Finance or an entitlement issuer of tax-exempt bonding authority for the project and a preliminary determination by the Minnesota Housing Finance Agency or the applicable suballocator of tax credits that the project will qualify for four percent low-income housing tax credits or (2) a reservation of nine percent low-income housing tax credits from the Minnesota Housing Finance Agency or a suballocator of tax credits for the project. A qualified housing development project may admit nonelderly individuals and families with higher incomes if:

(1) three years have passed since initial occupancy;

(2) the authority finds the project is experiencing unanticipated vacancies resulting in insufficient revenues, because of changes in population or other unforeseen circumstances that occurred after the initial finding of adequate revenues; and

(3) the authority finds a tax levy or payment from general assets of the general jurisdiction governmental unit will be necessary to pay debt service on the bonds if higher income individuals or families are not admitted.

(f) The authority may issue bonds to refund bonds issued under this subdivision in accordance with section 475.67. The finding of the adequacy of pledged revenues required by paragraph (a) and the public hearing required by paragraph (b) shall not apply to the issuance of refunding bonds. This paragraph applies to refunding bonds issued on and after July 1, 1992.

Sec. 28. Minnesota Statutes 2008, section 469.153, subdivision 2, is amended to read:

Subd. 2. **Project.** (a) "Project" means (1) any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field, or in the manufacturing, creation, or production of intangible property, including any patent, copyright, formula, process, design, know how, format, or other similar item; (2) any properties, real or

personal, used or useful in the abatement or control of noise, air, or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry; (3) any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including toll lines, poles, cables, switching, and other electronic equipment and administrative, data processing, garage, and research and development facilities; (4) any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities, and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

(b) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged in any business.

(c) "Project" also includes any properties, real or personal, used or useful for the promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts, recreational facilities of the type that may be acquired under section 471.191, and related facilities.

(d) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including hospitals, nursing homes, and related medical facilities.

(e) "Project" does not include any property to be sold or to be affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

(f) "Project" also means the activities of any revenue producing enterprise involving the construction, fabrication, sale, or leasing of equipment or products to be used in gathering, processing, generating, transmitting, or distributing solar, wind, geothermal, biomass, agricultural or forestry energy crops, or other alternative energy sources for use by any person or any residential, commercial, industrial, or governmental entity in heating, cooling, or otherwise providing energy for a facility owned or operated by that person or entity.

(g) "Project" also includes any properties, real or personal, used or useful in connection with a county jail, county regional jail, community corrections facilities authorized by chapter 401, or other law enforcement facilities, the plans for which are approved by the commissioner of corrections; provided that the provisions of section 469.155, subdivisions 7 and 13, do not apply to those projects.

(h) "Project" also includes any real properties used or useful in furtherance of the purpose and policy of section 469.141.

(i) "Project" also includes related facilities as defined by section 471A.02, subdivision 11.

(j) "Project" also includes an undertaking to purchase the obligations of local governments located in whole or in part within the boundaries of the municipality that are issued or to be issued for public purposes.

Sec. 29. Minnesota Statutes 2008, section 471.191, subdivision 1, is amended to read:

Subdivision 1. **Lease to nonprofit.** Any city operating a program of public recreation and playgrounds pursuant to sections 471.15 to 471.19 may acquire or lease, equip, and maintain land, buildings, and other recreational facilities, including, but without limitation, outdoor or indoor swimming pools, skating rinks and arenas, athletic fields, golf courses, marinas, concert halls, museums, and facilities for other kinds of athletic or cultural participation, contests, conventions, conferences, and exhibitions, together with related automobile parking facilities

as defined in section 459.14, and may expend funds for the operation of such program and borrow and expend funds for capital costs thereof pursuant to the provisions of this section. A school district operating a program of public recreation and playgrounds has the rights provided in this section. Any facilities to be operated by a nonprofit corporation, as contemplated in section 471.16, may be leased to the corporation upon such rentals and for such term, not exceeding 30 years, and subject to such other provisions as may be agreed; including but not limited to provisions (a) permitting the lessee, subject to whatever conditions are stated, to provide for the construction and equipment of the facilities by any means available to it and in the manner determined by it, without advertisement for bids as required for other municipal facilities, and (b) granting the lessee the option to renew the lease upon such conditions and rentals, or to purchase the facilities at such price, as may be agreed; provided that (c) any such lease shall require the lessee to pay net rentals sufficient to pay the principal, interest, redemption premiums, and other expenses when due with respect to all city bonds issued for the acquisition or betterment of the facilities, less such amount of taxes and special assessments, if any, as may become payable in any year of the term of the lease, on the land, building, or other facilities leased, and (d) no option shall be granted to purchase the facilities at any time at a price less than the amount required to pay all principal and interest to become due on such bonds to the earliest date or dates on which they may be paid and redeemed, and all redemption premiums and other expenses of such payment and redemption.

Sec. 30. Minnesota Statutes 2008, section 473.1293, is amended by adding a subdivision to read:

Subd. 6. **Renewable energy; transit or wastewater facilities.** For purposes of providing a source of renewable energy for its transit or wastewater facilities, the council may exercise the powers of a county under section 373.48; provided that funding for such purposes shall be from the proceeds of bonds issued for transit or wastewater purposes under section 473.39 or 473.541.

Sec. 31. Minnesota Statutes 2008, section 473.39, is amended by adding a subdivision to read:

Subd. 10. **Obligations.** After July 1, 2009, in addition to other authority in this section, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$34,200,000 for capital expenditures as prescribed in the council's regional transit master plan and transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations.

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

Sec. 32. Minnesota Statutes 2008, section 474A.02, subdivision 2, is amended to read:

Subd. 2. **Annual volume cap.** "Annual volume cap" means the aggregate dollar amount of obligations constituting "private activity bonds" under federal tax law and bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of federal tax law, may be issued in one year by issuers. Employees of the department shall handle the volume cap allocations for obligations permitted under the federal American Recovery and Reinvestment Act of 2009, whether taxable or tax-exempt, in accordance with orders of the commissioner.

Sec. 33. Minnesota Statutes 2008, section 474A.02, subdivision 14, is amended to read:

Subd. 14. **Manufacturing project.** "Manufacturing project" means any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property, or in the manufacturing, creation, or production of intangible property, including any patent, copyright, formula, process, design, know how, format, or other similar item.

Sec. 34. Minnesota Statutes 2008, section 475.51, subdivision 4, is amended to read:

Subd. 4. **Net debt.** "Net debt" means the amount remaining after deducting from its gross debt the amount of current revenues which are applicable within the current fiscal year to the payment of any debt and the aggregate of the principal of the following:

(1) Obligations issued for improvements which are payable wholly or partly from the proceeds of special assessments levied upon property specially benefited thereby, including those which are general obligations of the municipality issuing them, if the municipality is entitled to reimbursement in whole or in part from the proceeds of the special assessments.

(2) Warrants or orders having no definite or fixed maturity.

(3) Obligations payable wholly from the income from revenue producing conveniences.

(4) Obligations issued to create or maintain a permanent improvement revolving fund.

(5) Obligations issued for the acquisition, and betterment of public waterworks systems, and public lighting, heating or power systems, and of any combination thereof or for any other public convenience from which a revenue is or may be derived.

(6) Debt service loans and capital loans made to a school district under the provisions of sections 126C.68 and 126C.69.

(7) Amount of all money and the face value of all securities held as a debt service fund for the extinguishment of obligations other than those deductible under this subdivision.

(8) Obligations to repay loans made under section 216C.37.

(9) Obligations to repay loans made from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

(10) Obligations issued to pay pension fund ~~or other postemployment benefit~~ liabilities under section 475.52, subdivision 6, or any charter authority.

(11) Obligations issued to pay judgments against the municipality under section 475.52, subdivision 6, or any charter authority.

(12) Obligations issued by a school district to pay other postemployment benefits.

~~(12)~~ (13) All other obligations which under the provisions of law authorizing their issuance are not to be included in computing the net debt of the municipality.

EFFECTIVE DATE. This section is effective for obligations sold after August 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 475.52, subdivision 6, is amended to read:

Subd. 6. **Certain purposes.** Any municipality may issue bonds for paying judgments against it; for refunding outstanding bonds; for funding floating indebtedness; ~~for funding actuarial liabilities to pay postemployment benefits to employees or officers after their termination of service;~~ or for funding all or part of the municipality's current and future unfunded liability for a pension or retirement fund or plan referred to in section 356.20,

subdivision 2, as those liabilities are most recently computed pursuant to sections 356.215 and 356.216. The board of trustees or directors of a pension fund or relief association referred to in section 69.77 or chapter 422A must consent and must be a party to any contract made under this section with respect to the fund held by it for the benefit of and in trust for its members. A school district may issue bonds to pay postemployment benefits to employees or officers after their termination of service. For purposes of this section, the term "postemployment benefits" means benefits giving rise to a liability under Statement No. 45 of the Governmental Accounting Standards Board.

EFFECTIVE DATE. This section is effective for obligations sold after August 1, 2009.

Sec. 36. Minnesota Statutes 2008, section 475.58, subdivision 1, is amended to read:

Subdivision 1. **Approval by electors; exceptions.** Obligations authorized by law or charter may be issued by any municipality upon obtaining the approval of a majority of the electors voting on the question of issuing the obligations, but an election shall not be required to authorize obligations issued:

- (1) to pay any unpaid judgment against the municipality;
- (2) for refunding obligations;
- (3) for an improvement or improvement program, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program, or from tax increments, as defined in section 469.174, subdivision 25, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or tax increments and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from tax increments;
- (4) payable wholly from the income of revenue producing conveniences;
- (5) under the provisions of a home rule charter which permits the issuance of obligations of the municipality without election;
- (6) under the provisions of a law which permits the issuance of obligations of a municipality without an election;
- (7) to fund pension or retirement fund ~~or postemployment benefit~~ liabilities pursuant to section 475.52, subdivision 6;
- (8) under a capital improvement plan under section 373.40; ~~and~~
- (9) under sections 469.1813 to 469.1815 (property tax abatement authority bonds), if the proceeds of the bonds are not used for a purpose prohibited under section 469.176, subdivision 4g, paragraph (b); and
- (10) under section 475.755.

EFFECTIVE DATE. This section is effective the day following final enactment, except that the changes made to clause (7) are effective for obligations sold after August 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 475.67, subdivision 8, is amended to read:

Subd. 8. **Escrow account securities.** Securities purchased for the escrow account shall be limited to:

(a) general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following agencies of the United States: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, and the Federal National Mortgage Association; or

(b) obligations issued or guaranteed by any state or any political subdivision of a state, which at the date of purchase are rated in the highest or the next highest rating given category by Standard and Poor's Corporation, Moody's Investors Service, or a similar nationally recognized rating agency, but not less than the rating on the refunded bonds immediately prior to the refunding.

"Rating category," as used in this subdivision, means a generic securities rating category, without regard in the case of a long-term rating category to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

Sec. 38. **[475.755] EMERGENCY DEBT CERTIFICATES.**

(a) If at any time during a fiscal year the receipts of a local government are reasonably expected to be reduced below the amount provided in the local government's budget when the final property tax levy to be collected during the fiscal year was certified and the receipts are insufficient to meet the expenses incurred or to be incurred during the fiscal year, the governing body of the local government may authorize and sell certificates of indebtedness to mature within two years or less from the end of the fiscal year in which the certificates are issued. The maximum principal amount of the certificates that it may issue in a fiscal year is limited to the expected reduction in receipts plus the cost of issuance. The certificates may be issued in the manner and on the terms the governing body determines by resolution.

(b) The governing body of the local government shall levy taxes for the payment of principal and interest on the certificates in accordance with section 475.61.

(c) The certificates are not to be included in the net debt of the issuing local government.

(d) To the extent that a local government issues certificates under this section to fund an unallotment or other reduction in its state aid, the local government may not use a special levy for the aid reduction under section 275.70, subdivision 5, clause (22), or a similar or successor provision. This provision does not affect the status of the levy under section 475.61 to pay the certificates as a levy that is not subject to levy limits.

(e) For purposes of this section, the following terms have the meanings given:

(1) "Local government" means a statutory or home rule charter city, a town, or a county.

(2) "Receipts" includes the following amounts scheduled to be received by the local government for the fiscal year from:

(i) taxes;

(ii) aid payments previously certified by the state to be paid to the local government;

(iii) state reimbursement payments for property tax credits; and

(iv) any other source.

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

Sec. 39. Laws 1971, chapter 773, section 1, subdivision 2, as amended by Laws 1974, chapter 351, section 5, Laws 1976, chapter 234, sections 1 and 7, Laws 1978, chapter 788, section 1, Laws 1981, chapter 369, section 1, Laws 1983, chapter 302, section 1, Laws 1988, chapter 513, section 1, Laws 1992, chapter 511, article 9, section 23, Laws 1998, chapter 389, article 3, section 27, and Laws 2002, chapter 390, section 23, is amended to read:

Subd. 2. ~~For In~~ each ~~of the years 2003 to 2013~~ year, the city of St. Paul is authorized to issue bonds in the aggregate principal amount of \$20,000,000 ~~for each year~~.

EFFECTIVE DATE. This section is effective upon compliance by the city of St. Paul with the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 40. Laws 1971, chapter 773, section 4, as amended by Laws 1976, chapter 234, section 2, is amended to read:

Sec. 4. No proceeds of any bonds issued pursuant to section 1 hereof shall be expended for the construction or equipment of any portion of the St. Paul auditorium or civic center connected thereto; nor shall any such proceeds be expended for the acquisition or betterment of the building known as the Lowry Medical Arts Annex. All bonds issued under this act shall mature at any time or times within ten, or for bonds for public buildings or parking structures 30, years from the date of issue.

EFFECTIVE DATE. This section is effective upon compliance by the city of St. Paul with the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 41. Laws 2008, chapter 366, article 6, section 46, subdivision 1, is amended to read:

Subdivision 1. **Authorized.** Notwithstanding the contiguity requirement in Minnesota Statutes, section 447.31, subdivision 2, any two or more of the following cities and towns in St. Louis County may establish by resolution of their respective governing bodies the White Community Hospital District or its successor: the cities of Aurora, Biwabik, and Hoyt Lakes, and the towns of Biwabik, White, and Colvin. The proposed resolution to establish the hospital district must be published and is subject to referendum as provided in section 447.31, subdivision 2.

EFFECTIVE DATE. This section is effective the day following final enactment without local approval under Minnesota Statutes, section 645.023, subdivision 1, paragraph (a), for taxes levied in 2009, payable in 2010, and thereafter.

Sec. 42. Laws 2008, chapter 366, article 6, section 46, subdivision 2, is amended to read:

Subd. 2. **Powers; may make grants.** (a) Except as otherwise provided in this section, the White Community Hospital District or its successor shall be organized and have the powers and duties provided in Minnesota Statutes, sections 447.31, except subdivisions 2, 5, and 6; 447.32, subdivisions 5, 7, and 9; 447.345; 447.37; and 447.38.

(b) The hospital district may levy taxes as provided in this section to provide funding to make grants to the White Community Hospital or its successor and any affiliated health care facility or provider for any purpose authorized for hospital districts in Minnesota Statutes, sections 447.31 to 447.38, except 447.331. A grant must not be made under this section until the governing body of the White Community Hospital, and any of its affiliated health care facilities or providers receiving a grant, have entered into a written agreement with the hospital district board stating that the governing body will comply with and is subject to all provisions of the Minnesota open meeting law in Minnesota Statutes, chapter 13D.

EFFECTIVE DATE. This section is effective the day following final enactment without local approval under Minnesota Statutes, section 645.023, subdivision 1, paragraph (a), for taxes levied in 2009, payable in 2010, and thereafter.

Sec. 43. **ST. PAUL PORT AUTHORITY CREDIT.**

Notwithstanding Minnesota Statutes, section 474A.061, subdivision 4, the commissioner of finance shall apply the \$31,800 deposit paid in 2008 for a proposed issue of \$1,590,000 in tax exempt bonds by the St. Paul Port Authority for District Cooling St. Paul, Inc. to an application for an allocation of tax exempt bonds by the St. Paul Port Authority for the same project.

EFFECTIVE DATE. This section is effective the day following final enactment and expires January 1, 2011.

Sec. 44. **MINNESOTA EVENT DISTRICT EXPANSION, PHASE I.**

The city of St. Paul may issue up to \$40,000,000 of general obligation or special revenue bonds to finance the design, acquisition, construction, and equipping of a public community ice facility to be located within the block 39/arena tax increment district. The city may pledge, or use to pay the bonds, any money available to the city or its housing and redevelopment authority, including but not limited to any revenue derived from the project. The estimated collection of the pledged money may be deducted from any general ad valorem taxes otherwise required to be levied before issuance of general obligation bonds under Minnesota Statutes, section 475.61, subdivision 1. The bonds may be issued in one or more series and sold without election on the question of issuance of the bonds or the levy of a property tax to pay the bonds. Except as otherwise provided in this section, the bonds must be issued, sold, and secured in the manner provided in Minnesota Statutes, chapter 475.

EFFECTIVE DATE. This section is effective the day after the governing body of the city of St. Paul and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 45. **CHISAGO CITY AND LINDSTROM JOINT VENTURE.**

Any two or more of the cities of Chisago City and Lindstrom, their economic development authorities, housing and redevelopment authorities, and the county of Chisago may enter into a joint powers agreement to acquire and develop or redevelop a business park in the city of Chisago City or Lindstrom. Any party to the agreement may spend money or issue debt for all or a part of the project, regardless of whether the project is located within its corporate boundaries. Issuance of debt under this section is subject to Minnesota Statutes, chapter 475, except that an election is not required. The agreement may provide for the parties to share revenues from the project. Any party to the agreement may levy taxes or spend its funds, as otherwise permitted by law, to pay for the project, including debt issued to finance the project.

If the project is included in a tax increment financing district, each city and authority that is a party to the agreement may treat the tax increment financing district as being located within its corporate boundaries for purposes of the authority under the tax increment financing act, Minnesota Statutes, sections 469.174 to 469.179, to spend increments or issue bonds for the project.

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

Sec. 46. **MOUNTAIN IRON ECONOMIC DEVELOPMENT AUTHORITY; WIND ENERGY PROJECT.**

(a) The Mountain Iron economic development authority may form or become a member of a limited liability company organized under Minnesota Statutes, chapter 322B, for the purpose of developing a community-based energy development project pursuant to Minnesota Statutes, section 216B.1612. A limited liability company formed or joined under this section is subject to the open meeting requirements established in Minnesota Statutes, chapter 13D. A project authorized by this section may not sell, transmit, or distribute the electrical energy at retail or provide for end use of the electricity to an off-site facility of the economic development corporation or the limited liability company. Nothing in this section modifies the exclusive service territories or exclusive right to serve as provided in Minnesota Statutes, sections 216B.37 to 216B.43.

(b) The authority may acquire a leasehold interest in property outside its corporate boundaries for the purpose of developing a community-based energy development project as provided in Minnesota Statutes, section 216B.1612.

EFFECTIVE DATE. This section is effective the day after the city of Mountain Iron and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 47. **WINONA COUNTY ECONOMIC DEVELOPMENT AUTHORITY; WIND ENERGY PROJECT.**

(a) The Winona County economic development authority may form or become a member of a limited liability company organized under Minnesota Statutes, chapter 322B, for the purpose of developing a community-based energy development project pursuant to Minnesota Statutes, section 216B.1612. A limited liability company formed or joined under this section is subject to the open meeting requirements established in Minnesota Statutes, chapter 13D. A project authorized by this section may not sell, transmit, or distribute the electrical energy at retail or provide for end use of the electrical energy to an off-site facility of the economic development authority or the limited liability company. Nothing in this section modifies the exclusive service territories or exclusive right to serve as provided in Minnesota Statutes, sections 216B.37 to 216B.43.

(b) The authority may acquire a leasehold interest in property outside its corporate boundaries for the purpose of developing a community-based energy development project as provided in Minnesota Statutes, section 216B.1612.

EFFECTIVE DATE. This section is effective the day after the county of Winona and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 48. **TEMPORARY CARRYFORWARD EXTENSION.**

Notwithstanding Minnesota Statutes, section 474A.04, subdivision 1a, bonding authority allocated to an entitlement issuer in 2008, except the bonding authority allocated in Laws 2008, chapter 366, article 5, section 38, or 2009, that an entitlement issuer carries forward under federal tax law that is not permanently issued or for which the governing body of the entitlement issuer has not enacted a resolution electing to use the authority for mortgage credit certificates and has not provided a notice of issue to the commissioner of finance before 4:30 p.m. on the last business day in December 2011 must be deducted from the entitlement allocation for that entitlement issuer in 2012.

Sec. 49. **REPEALER.**

Minnesota Statutes 2008, section 37.31, subdivision 8, and Laws 1998, chapter 407, article 8, section 12, subdivision 4, are repealed.

Sec. 50. **EFFECTIVE DATE.**

Unless otherwise provided, the sections of this act are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public finance; providing terms and conditions relating to issuance of obligations and financing of public improvements; modifying restrictions on mail elections; providing tax credit and interest subsidy bonds; providing emergency debt certificates; authorizing the issuance of local bonds; authorizing the cities of Chisago City and Lindstrom to establish a joint venture, issue debt for use outside of the jurisdiction, and share revenues; providing for the additional financing of metropolitan area transit and paratransit capital expenditures; authorizing the issuance of certain obligations; authorizing counties to make joint purchases of energy and energy generation projects; authorizing Mountain Iron economic development and Winona County economic authorities to

form limited liability companies; eliminating the maximum limit on state agricultural society's bonded debt and the sunset on the authority to issue bonds and modifying its authorized investments of debt service funds; extending sunset for special service and housing improvement districts; modifying authority of municipalities to issue bonds for certain postemployment benefits; appropriating money; amending Minnesota Statutes 2008, sections 37.31, subdivisions 1, 7; 37.33, subdivision 3; 37.34; 126C.55, subdivision 4; 204B.46; 275.065, subdivision 6; 360.036, subdivision 2; 366.095, subdivision 1; 373.01, subdivision 3; 373.40, subdivision 1; 373.47, subdivision 1; 373.48, subdivision 1, by adding a subdivision; 383B.117, subdivision 2; 410.32; 412.301; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 428A.101; 428A.21; 446A.086, by adding a subdivision; 469.005, subdivision 1; 469.034, subdivision 2; 469.153, subdivision 2; 471.191, subdivision 1; 473.1293, by adding a subdivision; 473.39, by adding a subdivision; 474A.02, subdivisions 2, 14; 475.51, subdivision 4; 475.52, subdivision 6; 475.58, subdivision 1; 475.67, subdivision 8; Laws 1971, chapter 773, sections 1, subdivision 2, as amended; 4, as amended; Laws 2008, chapter 366, article 6, section 46, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 16A; 475; repealing Minnesota Statutes 2008, section 37.31, subdivision 8; Laws 1998, chapter 407, article 8, section 12, subdivision 4."

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1505, A bill for an act relating to public safety; providing for first- and second-degree sex trafficking; increasing criminal penalties for certain sex trafficking offenses; adding sex trafficking to the definition of crime of violence; amending Minnesota Statutes 2008, sections 609.281, subdivision 5; 609.321, subdivision 7a, by adding a subdivision; 609.322; 611A.036, subdivision 7; 624.712, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 299A.785, subdivision 2, is amended to read:

Subd. 2. **Report and annual Publication.** ~~(a) By September 1, 2006, the commissioner of public safety shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding a summary of its findings. This report shall include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.~~

~~(b)~~ The commissioner shall gather, and compile, and publish annually statistical data on the extent and nature of trafficking in Minnesota. The commissioner shall publish the data every two years. ~~This annual~~ publication shall be available to the public and include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

Sec. 2. Minnesota Statutes 2008, section 609.281, subdivision 5, is amended to read:

Subd. 5. **Labor trafficking.** "Labor trafficking" means:

(1) the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, ~~whether a United States citizen or foreign national,~~ for the purpose of:

- ~~(1)~~ (i) debt bondage or forced labor or services;
- ~~(2)~~ (ii) slavery or practices similar to slavery; or
- ~~(3)~~ (iii) the removal of organs through the use of coercion or intimidation; or

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

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

Sec. 3. Minnesota Statutes 2008, section 609.321, subdivision 7, is amended to read:

Subd. 7. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute; ~~or~~
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; ~~or~~
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; ~~or~~
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; ~~or~~
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; ~~or~~
- ~~(7) engages in the sex trafficking of an individual.~~

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

Sec. 4. Minnesota Statutes 2008, section 609.321, subdivision 7a, is amended to read:

Subd. 7a. **Sex trafficking.** "Sex trafficking" means:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

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

Sec. 5. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 13. **Prior qualified human trafficking-related offense.** A "prior qualified human trafficking-related offense" means a conviction or delinquency adjudication within the ten years from the discharge from probation or parole immediately preceding the current offense for a violation of or an attempt to violate section 609.322, subdivision 1 (prostitution; sex trafficking in the first degree); 609.322, subdivision 1a (prostitution; sex trafficking in the second degree); 609.282 (labor trafficking); or 609.283 (unlawful conduct with respect to documents in furtherance of labor or sex trafficking).

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

Sec. 6. Minnesota Statutes 2008, section 609.322, is amended to read:

609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING.

Subdivision 1. ~~Individuals under age 18~~ **Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.** (a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than ~~\$40,000~~ \$50,000, or both:

- (1) solicits or induces an individual under the age of 18 years to practice prostitution;
- (2) promotes the prostitution of an individual under the age of 18 years; or
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
- (4) engages in the sex trafficking of an individual under the age of 18 years.

(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:

- (1) the offender has committed a prior qualified human trafficking-related offense;
- (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
- (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
- (4) the offense involved more than one sex trafficking victim.

Subd. 1a. ~~Other offenses~~ **Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than ~~\$30,000~~ \$40,000, or both:

- (1) solicits or induces an individual to practice prostitution; ~~or~~

(2) promotes the prostitution of an individual; ~~or~~

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or

(4) engages in the sex trafficking of an individual.

Subd. 1b. **Exceptions.** Subdivisions 1, clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. **Aggregation of cases.** Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

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

Sec. 7. Minnesota Statutes 2008, section 611A.036, subdivision 7, is amended to read:

Subd. 7. **Definition.** As used in this section, "violent crime" means a violation or attempt to violate any of the following: section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1, (arson in the first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c), (burglary in the first degree; occupied dwelling or involving an assault); or 609.66, subdivision 1e, paragraph (b), (drive-by shooting; firing at or toward a person, or an occupied building or motor vehicle).

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

Sec. 8. Minnesota Statutes 2008, section 624.712, subdivision 5, is amended to read:

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment and stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

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

Delete the title and insert:

"A bill for an act relating to public safety; modifying publication date of data on trafficking to every two years; providing for first- and second-degree sex trafficking; increasing criminal penalties for certain sex trafficking offenses; adding sex trafficking to the definition of crime of violence; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, by adding a subdivision; 609.322; 611A.036, subdivision 7; 624.712, subdivision 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

S. F. No. 1876, A bill for an act relating to transportation; modifying and updating provisions relating to motor carriers, highways, and the Department of Transportation; making clarifying and technical changes; amending Minnesota Statutes 2008, sections 168.013, subdivision 1e; 168.185; 169.025; 169.801, subdivision 10; 169.823, subdivision 1; 169.824; 169.8261; 169.827; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivisions 1, 2; 169.865, subdivisions 1, 2, 3, 4; 169.866, subdivision 1; 169.87, subdivision 2, by adding a subdivision; 174.64, subdivision 4; 174.66; 221.012, subdivisions 19, 29; 221.021, subdivision 1; 221.022; 221.025; 221.026, subdivisions 2, 5; 221.0269, subdivision 3; 221.031, subdivisions 1, 3, 3c, 6; 221.0314, subdivisions 2, 3a, 9; 221.033, subdivisions 1, 2; 221.121, subdivisions 1, 7; 221.122, subdivision 1; 221.123; 221.132; 221.151, subdivision 1; 221.161, subdivisions 1, 4; 221.171; 221.172, subdivision 3; 221.185, subdivisions 2, 4, 5a, 9;

221.605, subdivision 1; 221.68; 221.81, subdivision 3d; repealing Minnesota Statutes 2008, sections 169.67, subdivision 6; 169.826, subdivisions 1b, 5; 169.832, subdivisions 11, 11a; 221.012, subdivisions 2, 3, 6, 7, 11, 12, 21, 23, 24, 30, 32, 39, 40, 41; 221.031, subdivision 2b; 221.072; 221.101; 221.111; 221.121, subdivisions 2, 3, 5, 6, 6a, 6c, 6d, 6e, 6f; 221.131, subdivision 2a; 221.141, subdivision 6; 221.151, subdivisions 2, 3; 221.153; 221.172, subdivisions 4, 5, 6, 7, 8; 221.296, subdivisions 3, 4, 5, 6, 7, 8.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 168.013, subdivision 1e, is amended to read:

Subd. 1e. **Truck; tractor; combination; exceptions.** (a) On trucks and tractors except those in this chapter defined as farm trucks, on truck-tractor and semitrailer combinations except those defined as farm combinations, and on commercial zone vehicles, the tax based on total gross weight shall be graduated according to the Minnesota base rate schedule prescribed in this subdivision, but in no event less than \$120.

Minnesota Base Rate Schedule
Scheduled taxes include five percent
surtax provided for in subdivision 14

TOTAL GROSS WEIGHT IN POUNDS			TAX
A	0	- 1,500	\$15
B	1,501	- 3,000	20
C	3,001	- 4,500	25
D	4,501	- 6,000	35
E	6,001	- 10,000	45
F	10,001	- 12,000	70
G	12,001	- 15,000	105
H	15,001	- 18,000	145
I	18,001	- 21,000	190
J	21,001	- 26,000	270
K	26,001	- 33,000	360
L	33,001	- 39,000	475
M	39,001	- 45,000	595
N	45,001	- 51,000	715
O	51,001	- 57,000	865
P	57,001	- 63,000	1015
Q	63,001	- 69,000	1185
R	69,001	- 73,280	1325
S	73,281	- 78,000	1595
T	78,001	- 80,000	1760

(b) For purposes of the Minnesota base rate schedule, for vehicles with six or more axles in the "S" and "T" categories, the base rates are \$1,520 and \$1,620 respectively.

(c) For each vehicle with a gross weight in excess of 80,000 pounds an additional tax of \$50 is imposed for each ton or fraction thereof in excess of 80,000 pounds, subject to subdivision 12.

(d) For purposes of registration identification, for vehicles registered in the "O" category, the owner must declare at the time of registration whether the vehicle will carry a weight of 55,000 pounds or more and therefore be subject to the federal heavy vehicle use tax. For those owners who declare a weight less than 55,000 pounds, a distinctive weight sticker must be issued and the owner is restricted to a gross vehicle weight of less than 55,000 pounds.

(e) Truck-tractors except those herein defined as farm and commercial zone vehicles shall be taxed in accord with the foregoing gross weight tax schedule on the basis of the combined gross weight of the truck-tractor and any semitrailer or semitrailers which the applicant proposes to combine with the truck-tractor.

(f) Commercial zone trucks include only trucks, truck-tractors, and semitrailer combinations which are operated by an interstate carrier registered under section 221.60, or by ~~an authorized~~ a carrier receiving operating authority under chapter 221, and operated solely within a zone exempt from regulation pursuant to United States Code, title 49, section 13506.

(g) The license plates issued for commercial zone vehicles shall be plainly marked. A person operating a commercial zone vehicle outside the zone or area in which its operation is authorized is guilty of a misdemeanor and, in addition to the misdemeanor penalty, the registrar shall revoke the registration of the vehicle as a commercial zone vehicle and shall require that the vehicle be registered at 100 percent of the full annual tax prescribed in the Minnesota base rate schedule, and no part of this tax may be refunded during the balance of the registration year.

(h) On commercial zone trucks the tax shall be based on the total gross weight of the vehicle and during each of the first eight years of vehicle life is 75 percent of the Minnesota base rate schedule. During the ninth and succeeding years of vehicle life the tax is 50 percent of the Minnesota base rate schedule.

(i) On trucks, truck-tractors and semitrailer combinations, except those defined as farm trucks and farm combinations, and except for those commercial zone vehicles specifically provided for in this subdivision, the tax for each of the first eight years of vehicle life is 100 percent of the tax imposed in the Minnesota base rate schedule, and during the ninth and succeeding years of vehicle life, the tax is 75 percent of the Minnesota base rate prescribed by this subdivision.

(j) For the purpose of registration, trailers coupled with a truck-tractor, semitrailer combination are semitrailers.

Sec. 2. Minnesota Statutes 2008, section 168.185, is amended to read:

168.185 USDOT NUMBERS.

(a) Except as provided in paragraph (d), an owner of a truck or truck-tractor having a gross vehicle weight of more than 10,000 pounds, as defined in section 169.011, subdivision 32, shall report to the commissioner at the time of registration its USDOT carrier number. A person subject to this paragraph who does not have a USDOT number shall apply for the number at the time of registration by completing a form MCS-150 Motor Carrier Identification Report, issued by the Federal Motor Carrier Safety Administration, or comparable document as determined by the commissioner. The commissioner shall not assign a USDOT carrier number to a vehicle owner who is not subject to this paragraph.

(b) Assigned USDOT numbers ~~need not~~ must be displayed ~~on the outside of the vehicle, but must be made available upon request of an authorized agent of the commissioner, peace officer, other employees of the State Patrol authorized in chapter 299D, or employees of the Minnesota Department of Transportation as required by section 221.031, subdivision 6.~~ The vehicle owner shall notify the commissioner if there is a change to the owner's USDOT number.

(c) If an owner fails to report or apply for a USDOT number, the commissioner shall suspend the owner's registration.

(d) This section does not apply to (1) a farm truck that is not used in interstate commerce, (2) a vehicle that is not used in intrastate commerce or interstate commerce, or (3) a vehicle that is owned and used solely in the transaction of official business by the federal government, the state, or any political subdivision.

Sec. 3. Minnesota Statutes 2008, section 169.025, is amended to read:

169.025 APPLICATION OF MOTOR CARRIER RULES.

Notwithstanding any provision of this chapter other than section 169.67, a vehicle, driver, or carrier that is subject to ~~a the motor carrier safety rule adopted under section 221.031 regulations incorporated in section 221.0314 or 221.605 shall comply with the more stringent or additional requirement imposed by that the motor carrier safety rule regulation.~~

Sec. 4. Minnesota Statutes 2008, section 169.801, subdivision 10, is amended to read:

Subd. 10. **Brakes.** Notwithstanding section 169.67:

(a) A self-propelled implement of husbandry must be equipped with brakes adequate to control its movement and to stop and hold it and any vehicle it is towing.

(b) A towed implement of husbandry must be equipped with brakes adequate to control its movement and to stop and hold it if:

(1) it has a gross vehicle weight of more than 24,000 pounds and was manufactured and sold after January 1, 1994;

(2) it has a gross vehicle weight of more than 12,000 pounds and is towed by a vehicle other than a self-propelled implement of husbandry; or

(3) it has a gross vehicle weight of more than 3,000 pounds and is being towed by a registered passenger automobile other than a pickup truck as defined in section 168.002, subdivision 26.

(c) If a towed implement of husbandry ~~with a gross vehicle weight of more than 6,000 pounds~~ is required under paragraph (b) to have brakes and was manufactured after January 1, 2011, it must also ~~have brakes adequate to stop and hold it if it becomes detached from the towing vehicle~~ be equipped with brakes as required in section 169.67, subdivision 3, paragraph (b).

Sec. 5. Minnesota Statutes 2008, section 169.823, subdivision 1, is amended to read:

Subdivision 1. **Pneumatic-tired vehicle.** No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state:

(1) where the gross weight on any wheel exceeds 9,000 pounds, ~~except that on paved county state-aid highways, paved county roads, designated local routes, and state trunk highways the gross weight on any single wheel shall not exceed~~ on an unpaved street or highway or 10,000 pounds on a paved street or highway, unless posted to a lesser weight under section 169.87, subdivision 1;

(2) where the gross weight on any single axle exceeds 18,000 pounds, ~~except that on paved county state aid highways, paved county roads, designated local routes, and state trunk highways the gross weight on any single axle shall not exceed on an unpaved street or highway or 20,000 pounds on a paved street or highway,~~ unless posted to a lesser weight under section 169.87, subdivision 1;

(3) where the maximum wheel load:

(i) on the foremost and rearmost steering axles, exceeds 600 pounds per inch of tire width or the manufacturer's recommended load, whichever is less; or

(ii) on other axles, exceeds 500 pounds per inch of tire width or the manufacturer's recommended load, whichever is less; or

(4) where the gross weight on any axle of a tridem exceeds 15,000 pounds, ~~except that for vehicles to which an additional axle has been added prior to June 1, 1981, the maximum gross weight on any axle of a tridem may be up to 16,000 pounds provided the gross weight of the tridem combination does not exceed 39,900 pounds where the first and third axles of the tridem are spaced nine feet apart;~~

(5) (4) where the gross weight on any group of axles exceeds the weights permitted under sections 169.822 to 169.829 with any or all of the interior axles disregarded, and with an exterior axle disregarded if the exterior axle is a variable load axle that is not carrying its intended weight, and their gross weights subtracted from the gross weight of all axles of the group under consideration.

Sec. 6. Minnesota Statutes 2008, section 169.824, is amended to read:

169.824 GROSS WEIGHT SCHEDULE.

Subdivision 1. **Table of axle weight limits.** (a) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state where the total gross weight on any group of two or more consecutive axles of any vehicle or combination of vehicles exceeds that given in the following table for the distance between the centers of the first and last axles of any group of two or more consecutive axles under consideration; unless otherwise noted, the distance between axles being measured longitudinally to the nearest even foot, and when the measurement is a fraction of exactly one-half foot the next largest whole number in feet shall be used, except that when the distance between axles is more than three feet four inches and less than three feet six inches the distance of four feet shall be used:

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of		
	2	3	4
	consecutive axles of a 2-axle vehicle or of any vehicle or combination of vehicles having a total of 2 or more axles	consecutive axles of a 3-axle vehicle or of any vehicle or combination of vehicles having a total of 3 or more axles	consecutive axles of a 4-axle vehicle or any combination of vehicles having a total of 4 or more axles
4	34,000		
5	34,000		
6	34,000		

7	34,000	37,000	
8	34,000	38,500	
8 plus	34,000	42,000	
	(38,000)		
9	35,000	43,000	
	(39,000)		
10	36,000	43,500	49,000
	(40,000)		
11	36,000	44,500	49,500
12		45,000	50,000
13		46,000	51,000
14		46,500	51,500
15		47,500	52,000
16		48,000	53,000
17		49,000	53,500
18		49,500	54,000
19		50,500	55,000
20		51,000	55,500
21		52,000	56,000
22		52,500	57,000
23		53,500	57,500
24		54,000	58,000
25		(55,000)	59,000
26		(55,500)	59,500
27		(56,500)	60,000
28		(57,000)	61,000
29		(58,000)	61,500
30		(58,500)	62,000
31		(59,500)	63,000
32		(60,000)	63,500
33			64,000
34			65,000
35			65,500
36			66,000
37			67,000
38			67,500
39			68,000
40			69,000
41			69,500
42			70,000
43			71,000
44			71,500
45			72,000
46			72,500
47			(73,500)
48			(74,000)
49			(74,500)
50			(75,500)
51			(76,000)
<u>52</u>			<u>(76,500)</u>
<u>53</u>			<u>(77,500)</u>

<u>54</u>	<u>(78,000)</u>
<u>55</u>	<u>(78,500)</u>
<u>56</u>	<u>(79,500)</u>
<u>57</u>	<u>(80,000)</u>

The maximum gross weight on a group of three consecutive axles where the distance between centers of foremost and rearmost axles is listed as seven feet or eight feet applies only to vehicles manufactured before August 1, 1991.

"8 plus" refers to any distance greater than eight feet but less than nine feet.

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of			
	5	6	7	8
	consecutive axles of a 5-axle vehicle or any combination of vehicles having a total of 5 or more axles	consecutive axles of a <u>6-axle vehicle</u> <u>or any combination</u> of vehicles having a total of 6 or more axles	consecutive axles of a <u>7-axle vehicle</u> <u>or any combination</u> of vehicles having a total of 7 or more axles	<u>consecutive axles</u> <u>of an 8-axle vehicle</u> <u>or any combination</u> <u>of vehicles having</u> <u>a total of 8 or more</u> <u>axles</u>
14	57,000			
15	57,500			
16	58,000			
17	59,000			
18	59,500			
19	60,000			
20	60,500	66,000	72,000	
21	61,500	67,000	72,500	
22	62,000	67,500	73,000	
23	62,500	68,000	73,500	
24	63,000	68,500	74,000	
25	64,000	69,000	75,000	
26	64,500	70,000	75,500	
27	65,000	70,500	76,000	
28	65,500	71,000	76,500	
29	66,500	71,500	77,000	
30	67,000	72,000	77,500	
31	67,500	73,000	78,500	
32	68,000	73,500	79,000	
33	69,000	74,000	79,500	
34	69,500	74,500	80,000	
35	70,000	75,000	<u>(80,500)</u>	<u>(86,000)</u>
36	70,500	76,000	<u>(81,000)</u>	<u>(86,500)</u>
37	71,500	76,500	<u>(81,500)</u>	<u>(87,000)</u>
38	72,000	77,000	<u>(82,000)</u>	<u>(87,500)</u>
39	72,500	77,500	<u>(82,500)</u>	<u>(88,500)</u>
40	73,000	78,000	<u>(83,500)</u>	<u>(89,000)</u>
41	(74,000) <u>74,000</u>	79,000	<u>(84,000)</u>	<u>(89,500)</u>
42	(74,500) <u>74,500</u>	79,500	<u>(84,500)</u>	<u>(90,000)</u>
43	(75,000) <u>75,000</u>	80,000	<u>(85,000)</u>	<u>(90,500)</u>

44	(75,500) 75,500	(80,500)	(85,500)	(91,000)
45	(76,500) 76,500	(81,000)	(86,000)	(91,500)
46	(77,000) 77,000	(81,500)	(87,000)	(92,500)
47	(77,500) 77,500	(82,000)	(87,500)	(93,000)
48	(78,000) 78,000	(83,000)	(88,000)	(93,500)
49	(79,000) 79,000	(83,500)	(88,500)	(94,000)
50	(79,500) 79,500	(84,000)	(89,000)	(94,500)
51	(80,000) 80,000	(84,500)	(89,500)	(95,000)
52	(80,500)	(85,000)	(90,500)	(95,500)
53	(81,000)	(86,000)	(91,000)	(96,500)
54	(81,500)	(86,500)	(91,500)	(97,000)
55	(82,500)	(87,000)	(92,000)	(97,500)
56	(83,000)	(87,500)	(92,500)	(98,000)
57	(83,500)	(88,000)	(93,000)	(98,500)
58	(84,000)	(89,000)	(94,000)	(99,000)
59	(85,000)	(89,500)	(94,500)	(99,500)
60	(85,500)	(90,000)	(95,000)	(100,500)
61			(95,500)	(101,000)
62			(96,000)	(101,500)
63			(96,500)	(102,000)
64			(97,000)	(102,500)
65				(103,000)
66				(103,500)
67				(104,500)
68				(105,000)
69				(105,500)
70				(106,000)
71				(106,500)
72				(107,000)
73				(107,500)
74				(108,000)

The gross weights shown ~~in without~~ parentheses in this table are ~~permitted only on state trunk highways and routes designated under section 169.832, subdivision 11,~~ allowed on unpaved streets and highways, unless posted to a lesser weight under section 169.87, subdivision 1. The gross weights shown in this table, whether within or without parentheses, are allowed on paved streets and highways, unless posted to a lesser weight under section 169.87, subdivision 1. Gross weights in excess of 80,000 pounds require an overweight permit under this chapter, unless otherwise allowed under section 169.826.

(b) Notwithstanding any lesser weight in pounds shown in this table but subject to the restrictions on gross vehicle weights in subdivision 2, paragraph (a), two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each and a combined gross load of 68,000 pounds provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

Subd. 2. Gross vehicle weight of all axles; credit for idle reduction technology. (a) ~~Notwithstanding the provisions of section 169.85,~~ The gross vehicle weight of all axles of a vehicle or combination of vehicles must not exceed:

(1) 80,000 pounds for any vehicle or combination of vehicles on all ~~(i) trunk highways as defined in section 160.02, subdivision 29, (ii) routes designated under section 169.832, subdivision 11, and (iii) paved nine ton routes streets and highways, unless posted at a lower axle weight under section 169.87, subdivision 1; and~~

(2) 88,000 pounds for any vehicle or combination of vehicles with six or more axles while exclusively engaged in hauling livestock on all state trunk highways other than interstate highways, if the vehicle has a permit under section 169.86, subdivision 5, paragraph (k); ~~and~~.

~~(3) 73,280 pounds for any vehicle or combination of vehicles with five axles or less on all routes, other than routes identified in clause (1).~~

(b) Notwithstanding the maximum weight provisions of this section ~~and section 169.85~~, and in order to promote the reduction of fuel use and emissions ~~because of engine idling~~, the maximum gross vehicle weight limits and the axle weight limits for any motor vehicle subject to sections 169.80 to 169.88 and equipped with idle reduction technology or emissions-reduction technology must be increased by the amount of weight necessary to compensate for the weight of the idle reduction technology or emissions-reduction technology, not to exceed 400 pounds. At the request of an authorized representative of the Department of Transportation or the Department of Public Safety, the vehicle operator shall provide proof that the vehicle is equipped with this technology through documentation or demonstration.

Sec. 7. Minnesota Statutes 2008, section 169.8261, is amended to read:

169.8261 GROSS WEIGHT LIMITATIONS; FOREST PRODUCTS.

Subdivision 1. Exemption. (a) ~~A vehicle or combination of vehicles hauling~~ For purposes of this section, "raw or unfinished forest products, ~~including~~" include wood chips, paper, pulp, oriented strand board, laminated strand lumber, hardboard, treated lumber, untreated lumber, or barrel staves.

(b) In compliance with this section, a person may operate a vehicle or combination of vehicles to haul raw or unfinished forest products by the most direct route to the nearest paved highway ~~that has been designated under section 169.832, subdivision 11, may be operated~~ on any highway with gross weights permitted under sections 169.822 to 169.829 ~~without regard to load restrictions imposed on that highway, except that the vehicles must~~.

Subd. 2. Conditions. (a) A vehicle or combination of vehicles described in subdivision 1 must:

(1) comply with seasonal load restrictions in effect between the dates set by the commissioner under section 169.87, subdivision 2;

(2) comply with bridge load limits posted under section 169.84;

(3) be equipped and operated with six axles and brakes on all wheels;

(4) not exceed 90,000 pounds gross vehicle weight, or 99,000 pounds gross vehicle weight during the time when seasonal increases are authorized under section 169.826;

(5) not be operated on interstate ~~and defense~~ highways;

(6) obtain an annual permit from the commissioner of transportation;

(7) obey all road postings; and

(8) not exceed 20,000 pounds gross weight on any single axle.

(b) A vehicle operated under this section may exceed the legal axle weight limits listed in section 169.824 by not more than 12.5 percent; except that, the weight limits may be exceeded by not more than ~~22.5~~ 23.75 percent during the time when seasonal increases are authorized under section 169.826, subdivision 1.

Sec. 8. Minnesota Statutes 2008, section 169.827, is amended to read:

169.827 GROSS WEIGHT REDUCTION ON RESTRICTED ROUTE.

The maximum weight on any single axle, two consecutive axles spaced within eight feet or less, three consecutive axles spaced within nine feet or less, or four consecutive axles spaced within 14 feet or less shall not exceed 18,000 pounds, 34,000 pounds, 43,000 pounds, or 51,500 pounds respectively multiplied by a factor of the axle weight in tons allowed on the restricted route divided by nine. ~~No combination of axle weights shall exceed those weights specified in Minnesota Statutes 1981 Supplement, section 169.825, subdivision 10 for nondesignated routes.~~

Sec. 9. Minnesota Statutes 2008, section 169.85, subdivision 2, is amended to read:

Subd. 2. **Unloading.** (a) Upon weighing a vehicle and load, as provided in this section, an officer may require the driver to stop the vehicle in a suitable place and remain standing until a portion of the load is removed that is sufficient to reduce the gross weight of the vehicle to the limit permitted under either section 168.013, subdivision 3, paragraph (b), or sections 169.822 to 169.829, whichever is the lesser violation, if any. A suitable place is a location where loading or tampering with the load is not prohibited by federal, state, or local law, rule, or ordinance.

(b) Except as provided in paragraph (c), a driver may be required to unload a vehicle only if the weighing officer determines that (1) on routes subject to the provisions of sections 169.822 to 169.829, the weight on an axle exceeds the lawful gross weight prescribed by sections 169.822 to 169.829, by 2,000 pounds or more, or the weight on a group of two or more consecutive axles in cases where the distance between the centers of the first and last axles of the group under consideration is ten feet or less exceeds the lawful gross weight prescribed by sections 169.822 to 169.829, by 4,000 pounds or more; or (2) ~~on routes designated by the commissioner in section 169.832, subdivision 11, the overall weight of the vehicle or the weight on an axle or group of consecutive axles exceeds the maximum lawful gross weights prescribed by sections 169.822 to 169.829; or (3) the weight is unlawful on an axle or group of consecutive axles on a road restricted in accordance with section 169.87. Material unloaded must be cared for by the owner or driver of the vehicle at the risk of the owner or driver.~~

(c) If the gross weight of the vehicle does not exceed the vehicle's registered gross weight plus the weight allowance set forth in section 168.013, subdivision 3, paragraph (b), and plus, if applicable, the weight allowance permitted under section 169.826, then the driver is not required to unload under paragraph (b).

Sec. 10. Minnesota Statutes 2008, section 169.862, subdivision 2, is amended to read:

Subd. 2. **Additional restrictions.** Permits issued under this section are governed by the applicable provisions of section 169.86 except as otherwise provided herein and, in addition, carry the following restrictions:

(a) The vehicles may not be operated between sunset and sunrise, when visibility is impaired by weather, fog, or other conditions rendering persons and vehicles not clearly visible at a distance of 500 feet, or on Sunday from noon until sunset, or on the days the following holidays are observed: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

~~(b) The vehicles may not be operated on interstate highways.~~

~~(c)~~ (b) The vehicles may not be operated on a trunk highway with a pavement less than 24 feet wide.

~~(d)~~ (c) A vehicle operated under the permit must be equipped with a retractable or removable mirror on the left side so located that it will reflect to the driver a clear view of the highway for a distance of at least 200 feet to the rear of the vehicle.

~~(d)~~ (d) A vehicle operated under the permit must display red, orange, or yellow flags, 18 inches square, as markers at the front and rear and on both sides of the load. The load must be securely bound to the transporting vehicle.

~~(e)~~ (e) Farm vehicles not for hire carrying round baled hay less than 20 miles are exempt from the requirement to obtain a permit. All other requirements of this section apply to vehicles transporting round baled hay.

Sec. 11. Minnesota Statutes 2008, section 169.864, subdivision 1, is amended to read:

Subdivision 1. **Special three-unit vehicle permit.** The commissioner may issue a permit for a vehicle that meets the following requirements:

(1) is a combination of vehicles, including a truck-tractor and a semitrailer drawing one additional semitrailer, which may be equipped with an auxiliary dolly, and no semitrailer used in the three-vehicle combination has an overall length in excess of 28-1/2 feet;

(2) has a maximum gross vehicle weight of 108,000 pounds;

(3) complies with the axle weight limits in section 169.824 ~~or with the federal bridge formula for axle groups not described in that section;~~

(4) complies with the tire weight limits in section 169.823 or the tire manufacturers' recommended load, whichever is less;

(5) is operated only in this state on Trunk Highway marked 2 between Grand Rapids and the port of Duluth; on Trunk Highway marked 169 between Grand Rapids and its junction with Trunk Highway marked 53; on Trunk Highway marked 194 between Trunk Highway marked 2 and Trunk Highway marked 53; and on Trunk Highway marked 53 between Virginia and the port of Duluth; and

(6) the seasonal weight increases authorized under section 169.826, subdivision 1, do not apply.

Sec. 12. Minnesota Statutes 2008, section 169.864, subdivision 2, is amended to read:

Subd. 2. **Special two-unit vehicle permit.** The commissioner may issue a permit for a vehicle that meets the following requirements:

(1) is a combination of vehicles consisting of a truck-tractor and a single semitrailer that may exceed 48 feet, but not 53 feet, if the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 43 feet;

(2) has a maximum gross vehicle weight of 90,000 pounds or 97,000 pounds if the truck has seven axles;

(3) has a maximum gross vehicle weight of ~~98,000~~ 99,000 pounds during the time when seasonal weight increases authorized under section 169.826, subdivision 1, are in effect;

(4) complies with the axle weight limits in section 169.824 ~~or with the federal bridge formula for axle groups not described in that section;~~

(5) complies with the tire weight limits in section 169.823 or the tire manufacturers' recommended load, whichever is less; and

(6) is operated only on the highways specified in subdivision 1, clause (5).

Sec. 13. Minnesota Statutes 2008, section 169.865, subdivision 1, is amended to read:

Subdivision 1. **Six-axle vehicles.** (a) A road authority may issue an annual permit authorizing a vehicle or combination of vehicles with a total of six or more axles to haul raw or unprocessed agricultural products and be operated with a gross vehicle weight of up to:

(1) 90,000 pounds; and

(2) 99,000 pounds during the period set by the commissioner under section 169.826, subdivision 1.

(b) Notwithstanding subdivision 4, paragraph (a), clause (4), a vehicle or combination of vehicles operated under this subdivision and transporting only sealed intermodal containers may be operated on an interstate highway if allowed by the United States Department of Transportation.

(c) The fee for a permit issued under this subdivision is \$300.

Sec. 14. Minnesota Statutes 2008, section 169.865, subdivision 2, is amended to read:

Subd. 2. **Seven-axle vehicles.** (a) A road authority may issue an annual permit authorizing a vehicle or combination of vehicles with a total of seven or more axles to haul raw or unprocessed agricultural products and be operated with a gross vehicle weight of up to:

(1) 97,000 pounds; and

(2) 99,000 pounds during the period set by the commissioner under section 169.826, subdivision 1.

(b) Drivers of vehicles operating under this subdivision must comply with driver qualification requirements adopted under section 221.0314, subdivisions 2 to 5, and Code of Federal Regulations, title 49, parts 40 and 382.

(c) The fee for a permit issued under this subdivision is \$500.

Sec. 15. Minnesota Statutes 2008, section 169.865, subdivision 3, is amended to read:

Subd. 3. **Requirements; restrictions.** (a) A vehicle or combination of vehicles operating under this section:

(1) is subject to axle weight limitations under section 169.824, subdivision 1, ~~or the federal bridge formula for axle groups not described in that section;~~

(2) is subject to seasonal load restrictions under section 169.87;

(3) is subject to bridge load limits posted under section 169.84;

(4) may only be operated on ~~trunk paved streets and highways other than interstate highways, and on local roads designated under section 169.832, subdivision 11;~~

(5) may not be operated with loads that exceed the manufacturer's gross vehicle weight rating as affixed to the vehicle, or other certification of gross vehicle weight rating complying with Code of Federal Regulations, title 49, parts 567.4 to 567.7;

(6) must be issued a permit from each road authority having jurisdiction over a road on which the vehicle is operated, if required;

(7) must comply with the requirements of section 169.851, subdivision 4; and

(8) must have brakes on all wheels.

(b) The percentage allowances for exceeding gross weights if transporting unfinished forest products under section 168.013, subdivision 3, paragraph (b), or for the first haul of unprocessed or raw farm products or unfinished forest products under section 168.013, subdivision 3, paragraph (d), clause (3), do not apply to a vehicle or combination of vehicles operated under this section.

Sec. 16. Minnesota Statutes 2008, section 169.865, subdivision 4, is amended to read:

Subd. 4. **Deposit of revenues; appropriation.** (a) Revenue from the permits issued by the commissioner under this section must be deposited:

(1) in fiscal years 2008 through 2011, in the bridge inspection and signing account in the special revenue fund; and

(2) in fiscal year 2012 and subsequent years, in the trunk highway fund.

(b) The revenue in the bridge inspection and signing account under this section is annually appropriated to the commissioner for:

(1) inspection of local bridges and identification of local bridges to be posted, including contracting with a consultant for some or all of these functions; and

(2) erection of weight-posting signs on local bridges.

Sec. 17. Minnesota Statutes 2008, section 169.866, subdivision 1, is amended to read:

Subdivision 1. **Special three-unit vehicle permit.** The commissioner may issue a permit for a vehicle that meets the following requirements:

(1) is a combination of vehicles, including a truck-tractor and a semitrailer drawing one additional trailer or semitrailer, and no semitrailer used in the three-vehicle combination has an overall length in excess of 28-1/2 feet;

(2) has a maximum gross vehicle weight of 105,500 pounds;

(3) complies with the axle weight limits in section 169.824, ~~or with the federal bridge formula for axle groups not described in that section;~~

(4) complies with the tire weight limits in section 169.823, or the tire manufacturers' recommended load, whichever is less;

(5) is operated only in this state on marked Trunk Highway 175 from Hallock to the North Dakota border, on U.S. Highway 75 from Hallock to Donaldson, and on marked Trunk Highway 11 from Donaldson to the North Dakota border; and

(6) the seasonal weight increases authorized under section 169.826, subdivision 1, do not apply.

Sec. 18. Minnesota Statutes 2008, section 169.87, subdivision 2, is amended to read:

Subd. 2. **Seasonal load restriction.** ~~Except for portland cement concrete roads,~~ (a) Unless restricted as provided in subdivision 1, between the dates set by the commissioner of transportation each year, the weight on any single axle shall not exceed:

~~(1) five tons on a county highway, town road, or city street that has not been restricted as provided in subdivision 1; an unpaved street or highway; or~~

(2) ten tons on a paved street or highway.

(b) The gross weight on consecutive axles on an unpaved street or highway shall not exceed the gross weight allowed in sections 169.822 to 169.829 multiplied by a factor of five divided by nine. This reduction shall not apply to the gross vehicle weight.

Sec. 19. Minnesota Statutes 2008, section 174.64, subdivision 4, is amended to read:

Subd. 4. **Petition, ~~notice,~~ and hearing.** (a) With respect to those matters within the commissioner's jurisdiction, the commissioner shall receive, hear, and determine all petitions filed with the commissioner in accordance with the procedures established by law and may hold hearings and make determinations upon the commissioner's own motion to the same extent, and in every instance, in which the commissioner may do so upon petition.

~~(b) Upon receiving a petition filed pursuant to section 221.121, subdivision 1, or 221.151, the commissioner shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the commissioner for that purpose and to whomever the commissioner deems to be interested in the petition. The commissioner may grant or deny the request of the petition 30 days after notice of the filing has been fully given.~~

~~(b)~~ (b) If the commissioner receives a written objection and notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition must be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn before the hearing. The commissioner may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and must be granted, a contested case hearing on the petition.

Sec. 20. Minnesota Statutes 2008, section 174.66, is amended to read:

174.66 CONTINUATION OF CARRIER RULES.

(a) Orders and directives in force, issued, or promulgated under authority of chapters 174A, 216A, 218, 219, 221, and 222 remain and continue in force and effect until repealed, modified, or superseded by duly authorized orders or directives of the commissioner of transportation. To the extent allowed under federal law or regulation, rules adopted under authority of the following sections are transferred to the commissioner of transportation and continue in force and effect until repealed, modified, or superseded by duly authorized rules of the commissioner:

(1) section 218.041 except rules related to the form and manner of filing railroad rates, railroad accounting rules, and safety rules;

(2) section 219.40;

(3) rules relating to rates or tariffs, or the granting, limiting, or modifying of permits ~~or certificates of convenience and necessity~~ under section 221.031, subdivision 1;

(4) rules relating to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier as prescribed in section 221.151, subdivision 1;

(5) rules relating to rates, charges, and practices under section 221.161, subdivision 4; and

(6) rules relating to rates, tariffs, or the granting, limiting, or modifying of permits under sections 221.121 and 221.151.

(b) The commissioner shall review the transferred rules, orders, and directives and, when appropriate, develop and adopt new rules, orders, or directives.

Sec. 21. Minnesota Statutes 2008, section 221.012, subdivision 19, is amended to read:

Subd. 19. **Household goods.** "Household goods" means personal effects and property used or to be used by the owner in the owner's dwelling; ~~furniture, fixtures, equipment and property of business places and institutions, public or private, when a part of the stock, equipment, supplies or property of such establishments.~~

Sec. 22. Minnesota Statutes 2008, section 221.012, subdivision 29, is amended to read:

Subd. 29. **Permit.** "Permit" means the license, ~~or franchise, which that~~ may be issued to motor carriers ~~other than regular route common carriers of passengers, class I common carriers, and petroleum carriers,~~ under the provisions of this chapter, authorizing the use of the highways of Minnesota for transportation for hire.

Sec. 23. Minnesota Statutes 2008, section 221.021, subdivision 1, is amended to read:

Subdivision 1. **Registration certificate or permit required.** No person may operate as a motor carrier or advertise or otherwise hold out as a motor carrier without a certificate of registration or permit in effect. A certificate or permit may be suspended or revoked upon conviction of violating a provision of sections 221.012 to ~~221.296~~ 221.291 or an order or rule of the commissioner governing the operation of motor carriers, and upon a finding by the court that the violation was willful. The commissioner may, for good cause after a hearing, suspend or revoke a certificate or permit for a violation of a provision of sections 221.012 to ~~221.296~~ 221.291 or an order issued or rule adopted under this chapter.

Sec. 24. Minnesota Statutes 2008, section 221.022, is amended to read:

221.022 EXCEPTION.

The powers granted to the commissioner under sections 221.012 to ~~221.296~~ 221.295 do not include the power to regulate any service or vehicles operated by the Metropolitan Council or to register passenger transportation service provided under contract to the department or the Metropolitan Council. A provider of passenger transportation service under contract to the department or the Metropolitan Council may not also provide service as a motor carrier of passengers without first having registered under section 221.0252.

Sec. 25. Minnesota Statutes 2008, section 221.025, is amended to read:

221.025 EXEMPTIONS.

The provisions of this chapter requiring a certificate or permit to operate as a motor carrier do not apply to the intrastate transportation described below:

(1) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451 and the transportation of children or parents to or from a Head Start facility or Head Start activity in a Head Start bus inspected and certified under section 169.451;

(2) the transportation of solid waste, as defined in section 116.06, subdivision 22, including recyclable materials and waste tires, except that the term "hazardous waste" has the meaning given it in section 221.012, subdivision 18;

(3) a commuter van as defined in section 221.012, subdivision 9;

(4) authorized emergency vehicles as defined in section 169.011, subdivision 3, including ambulances; and tow trucks equipped with proper and legal warning devices when picking up and transporting (i) disabled or wrecked motor vehicles or (ii) vehicles towed or transported under a towing order issued by a public employee authorized to issue a towing order;

(5) the transportation of grain samples under conditions prescribed by the commissioner;

(6) the delivery of agricultural lime;

(7) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(8) the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile and the mortar mix to be used with the concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(9) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(10) the transportation of fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(11) the transportation of property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities ~~except as provided in section 221.296;~~

(12) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(13) the transportation of agricultural, horticultural, dairy, livestock, or other farm products within an area having a 100-mile radius from the person's home post office and the carrier may transport other commodities within the 100-mile radius if the destination of each haul is a farm;

(14) the transportation of newspapers, as defined in section 331A.01, subdivision 5, telephone books, handbills, circulars, or pamphlets in a vehicle with a gross vehicle weight of 10,000 pounds or less; and

(15) transportation of potatoes from the field of production, or a storage site owned or otherwise controlled by the producer, to the first place of processing.

The exemptions provided in this section apply to a person only while the person is exclusively engaged in exempt transportation.

Sec. 26. Minnesota Statutes 2008, section 221.026, subdivision 2, is amended to read:

Subd. 2. **Exemptions from requirements.** Notwithstanding any other law, a motor carrier of property is exempt from sections 221.021; ~~221.072~~; 221.121; 221.122; 221.123; 221.131; 221.132; 221.151; 221.161; 221.172, ~~subdivisions subdivision 3 to 8; and 221.185~~, except as provided in subdivision 4; ~~and 221.296~~. The exemptions in this subdivision do not apply to a motor carrier of property while transporting household goods.

Sec. 27. Minnesota Statutes 2008, section 221.026, subdivision 5, is amended to read:

Subd. 5. **Local regulation.** Section 221.091 applies to registration statements under this section to the same extent that it applies to certificates and permits issued by the ~~board~~ commissioner.

Sec. 28. Minnesota Statutes 2008, section 221.0269, subdivision 3, is amended to read:

Subd. 3. **Termination of relief efforts.** (a) Upon termination of direct assistance to an emergency relief effort, a carrier or driver is subject to the requirements of section 221.0314, except that a driver may return empty to a carrier's terminal or the driver's normal work reporting location without complying with that section. A driver who informs the carrier that the driver needs immediate rest must be permitted at least eight consecutive hours off duty before the driver is required to return to the terminal or location. Having returned to the terminal or other location, the driver must be relieved of all duty and responsibilities.

(b) When a driver has been relieved of all duty and responsibilities upon termination of direct assistance to an emergency relief effort, ~~no~~ a carrier shall neither permit ~~or~~ nor require any driver used by it to drive nor shall any such driver drive in commerce until the driver:

(1) has met the requirements of Code of Federal Regulations, title 49, section 395.3, paragraph (a), which is incorporated by reference; and

(2) has had at least 34 consecutive hours off duty if (i) the driver has been on duty for more than 60 hours in any seven consecutive days at the time the driver is relieved of all duty if the employing carrier does not operate every day in the week, or (ii) the driver has been on duty for more than 70 hours in any eight consecutive days at the time the driver is relieved of all duty if the employing carrier operates every day in the week.

(c) For purposes of this section, direct assistance to an emergency relief effort terminates when a driver or commercial motor vehicle is used to transport cargo not destined for the emergency relief effort, or when the carrier dispatches that driver or vehicle to another location to begin operations in commerce.

Sec. 29. Minnesota Statutes 2008, section 221.031, subdivision 1, is amended to read:

Subdivision 1. **Powers, duties, rules, filings.** (a) This subdivision applies to motor carriers engaged in intrastate commerce.

(b) The commissioner shall prescribe rules for the operation of motor carriers, including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules.

(c) The commissioner shall direct the repair and reconstruction or replacement of an inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms, and accommodations or shelters in a city in this state or at a point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property.

(d) The commissioner shall (1) require holders of household goods mover permits to file schedules of rates and charges, ~~or other data by motor carriers,~~ (2) regulate motor carriers in matters affecting the relationship between them and the traveling and shipping public, and (3) prescribe other rules as may be necessary to carry out the provisions of this chapter.

(e) The commissioner shall enforce sections 169.781 to 169.783.

Sec. 30. Minnesota Statutes 2008, section 221.031, subdivision 3, is amended to read:

Subd. 3. **Vehicle over 10,000 pounds not exempt.** (a) This subdivision applies to persons engaged in intrastate commerce who operate vehicles providing transportation described in section 221.025 with a gross vehicle weight in excess of 10,000 pounds, except school buses, commuter vans, and authorized emergency vehicles.

(b) Persons providing transportation described in section 221.025, clause (6), (10), (12), or (13), must comply with the rules for driving of motor vehicles and for parts and accessories necessary for safe operation.

(c) Persons providing transportation described in section 221.025, except for persons providing transportation described in clause (6), (10), (12), or (13), must comply with the rules for driving of motor vehicles; parts and accessories necessary for safe operation; and, ~~after August 1, 1994,~~ the rules for driver qualifications.

Sec. 31. Minnesota Statutes 2008, section 221.031, subdivision 3c, is amended to read:

Subd. 3c. **Solid waste transporter not exempt.** Persons providing transportation described in section 221.025, clause (2), must comply with the rules for driver qualifications ~~after August 1, 1994;~~ hours of service of drivers; driving of motor vehicles; parts and accessories necessary for safe operation; and inspection, repair, and maintenance. A local government unit, as defined in section 115A.03, subdivision 17, shall not enact or enforce laws, ordinances, or regulations for the operation of solid waste transporters that are inconsistent with the rules adopted in section 221.0314.

Sec. 32. Minnesota Statutes 2008, section 221.031, subdivision 6, is amended to read:

Subd. 6. **Vehicle identification rule.** ~~(a)~~ The following carriers shall ~~display the carrier's name on the power unit of each vehicle~~ comply with section 168.185 and with the requirements for marking commercial motor vehicles in Code of Federal Regulations, title 49, section 390.21, which is incorporated by reference:

(1) motor carriers, regardless of the weight of the vehicle, except that this requirement does not apply to a limousine as defined in section 168.002, subdivision 15, that is equipped with "LM" license plates;

(2) interstate and intrastate private carriers operating vehicles with a gross vehicle weight of more than 10,000 pounds; and

(3) vehicles providing transportation described in section 221.025 with a gross vehicle weight of more than 10,000 pounds except those providing transportation described in section 221.025, clauses (1), (3), and (4).

~~Vehicles described in clauses (2) and (3) that are operated by farmers or farm employees and have four or fewer axles~~ section 168.185, paragraph (d), are not required to comply with the vehicle identification rule of the commissioner.

~~(b) Vehicles subject to this subdivision must show the name or "doing business as" name of the carrier operating the vehicle. If the carrier operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating carrier appears on the vehicle, the words "operated by" must immediately precede the name of the carrier.~~

~~(c) The name must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The name may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.~~

Sec. 33. Minnesota Statutes 2008, section 221.0314, subdivision 2, is amended to read:

Subd. 2. **Qualification of driver.** Code of Federal Regulations, title 49, part 391 and appendixes D and E, are incorporated by reference except for sections 391.2; 391.11, paragraph (b)(1); 391.47; 391.49; 391.62; 391.64; 391.67; 391.68; and 391.69; ~~391.71; and 391.73.~~ In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference.

Sec. 34. Minnesota Statutes 2008, section 221.0314, subdivision 3a, is amended to read:

Subd. 3a. **Waiver for other medical condition.** (a) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13). A waiver granted under this subdivision applies to intrastate transportation only.

(b) A person who wishes to obtain a waiver under this subdivision must give the commissioner the following information:

- (1) the applicant's name, address, and telephone number;
- (2) the name, address, and telephone number of an employer coapplicant, if any;
- (3) a description of the applicant's experience in driving the type of vehicle to be operated under the waiver;
- (4) a description of the type of driving to be done under the waiver;
- (5) a description of any modifications to the vehicle the applicant intends to drive under the waiver that are designed to accommodate the applicant's medical condition or disability;
- (6) whether the applicant has been granted another waiver under this subdivision;
- (7) a copy of the applicant's current driver's license;
- (8) a copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive unless a waiver is granted;
- (9) a statement from the applicant's treating physician that includes:
 - (i) the extent to which the physician is familiar with the applicant's medical history;
 - (ii) a description of the applicant's medical condition for which a waiver is necessary;
 - (iii) assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and
 - (iv) the physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a motor vehicle safely; and

(10) any other information considered necessary by the commissioner including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

(c) In granting a waiver under this subdivision, the commissioner may impose conditions the commissioner considers necessary to ensure that an applicant is able to operate a motor vehicle safely and that the safety of the general public is protected.

(d) A person who is granted a waiver under this subdivision must:

(1) at intervals specified in the waiver, give the commissioner periodic reports from the person's treating physician, or a medical specialist if the commissioner so requires in the waiver, that contain the information described in paragraph (b), clause (9), together with a description of any episode that involved the person's loss of consciousness or loss of ability to operate a motor vehicle safely; and

(2) immediately report the person's involvement in an accident for which a report is required under section 169.09, subdivision 7.

(e) The commissioner shall deny an application if, during the three years preceding the application,:

(1) the applicant's driver's license has been suspended under section 171.18, paragraph (a), clauses (1) to (9), (11), and (12), canceled under section 171.14, or revoked under section 171.17, 171.172, or 171.174; or

(2) the applicant has been convicted of a disqualifying offense, as defined in Code of Federal Regulations, title 49, section 383.51, paragraph (b)(2), which is incorporated by reference.

(f) The commissioner may deny an application or may immediately revoke a waiver granted under this subdivision. Notice of the commissioner's reasons for denying an application or for revoking a waiver must be in writing and must be mailed to the applicant's or waiver holder's last known address by certified mail, return receipt requested. A person whose application is denied or whose waiver is revoked is entitled to a hearing under chapter 14.

(g) A waiver granted under this subdivision expires on the date of expiration shown on the medical examiner's certificate described in paragraph (b), clause (8).

Sec. 35. Minnesota Statutes 2008, section 221.0314, subdivision 9, is amended to read:

Subd. 9. **Hours of service of driver.** Code of Federal Regulations, title 49, part 395, is incorporated by reference, except that paragraphs (a), (c), (d), (f), (h), (i), (k), (m), and (n) of section 395.1 ~~and section 395.13~~ of that part are not incorporated. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference. The requirements of Code of Federal Regulations, title 49, part 395, do not apply to drivers of lightweight vehicles.

Sec. 36. Minnesota Statutes 2008, section 221.033, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** Except as provided in subdivisions 2 to 3, no person may transport or offer or accept for transportation within the state of Minnesota a hazardous material, hazardous substance, or hazardous waste except in compliance with United States Code, title 49, sections 5101 to 5126 and the provisions of Code of Federal Regulations, title 49, parts 171 to 199, which are incorporated by reference. Those provisions apply to transportation in intrastate commerce to the same extent they apply to transportation in interstate commerce.

Sec. 37. Minnesota Statutes 2008, section 221.033, subdivision 2, is amended to read:

Subd. 2. **Exemption for farmer.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Farmers or their employees transporting diesel fuel, gasoline, agricultural chemicals, or agricultural fertilizers for use on the transporter's farm are not required to comply with the rules ~~adopted~~ incorporated in section 221.0314, subdivisions 2 to 5, for driver qualifications or with the shipping paper requirements of the Code of Federal Regulations, title 49, ~~sections section~~ section 172.200 ~~and~~ 177.817, ~~or with section~~ 397.7(B) ~~or~~ 397.9(A), paragraph (b), of the Federal Motor Carrier Safety Regulations when:

(1) transporting diesel fuel or gasoline in motorized tank truck vehicles of less than 1,500-gallon capacity owned by the transporter, or in tanks securely mounted in other motor vehicles with a gross vehicle weight of less than 10,000 pounds and owned by the transporter; or

(2) transporting agricultural chemicals and agricultural fertilizers.

Sec. 38. Minnesota Statutes 2008, section 221.121, subdivision 1, is amended to read:

Subdivision 1. **Petition Application; scope.** (a) A person desiring to operate as a permit household goods carrier, ~~except as provided in subdivision 5 or section 221.296~~, shall file a petition with the commissioner specifying the kind of permit desired, the name and address of the petitioner and the names and addresses of the officers, if a corporation, and other information as the commissioner may require. ~~Letters of shipper support must be filed with the petition~~ shall file an application with the commissioner on a form the commissioner prescribes. No person shall knowingly make a false or misleading statement in a ~~petition~~ an application.

(b) The commissioner shall issue the permit ~~upon compliance with the laws and rules relating to it, if it finds that petitioner is fit and able to conduct the proposed operations, that petitioner's vehicles meet the safety standards established by the department, provided that no person who holds a permit at the time sections 221.012 to 221.291 take effect may be denied a renewal of the permit upon compliance with other provisions of sections 221.012 to 221.291~~ to an applicant who has filed an application complying with this subdivision, who has paid the required fee, and who has complied with the financial responsibility requirements in section 221.141. The commissioner shall not issue a permit to an applicant who has an unsatisfactory safety rating.

(c) A permit once granted continues in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with the applicable provisions of law and the rules of the commissioner governing permit carriers.

(d) ~~No permit may be issued to a common carrier by rail permitting the common carrier to operate trucks for hire within this state, nor may a common carrier by rail be permitted to own, lease, operate, control, or have an interest in a permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through a holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.012 to 221.291 prevents the commissioner from issuing a permit to a common carrier by rail authorizing the carrier to operate trucks wholly within the limits of a municipality or within adjacent or contiguous municipalities or a common rate point served by the railroad and only as a service supplementary to the rail service now established by the carriers. All permits granted to household goods carriers must allow statewide operation. Notwithstanding any geographical restrictions imposed upon a permit at the time it was granted or any state law or rule to the contrary, the holder of a household goods permit may operate statewide.~~

Sec. 39. Minnesota Statutes 2008, section 221.121, subdivision 7, is amended to read:

Subd. 7. **Fee.** The petitioner shall pay a fee of \$150 into the treasury of the state of Minnesota for each ~~kind of permit or extension of authority for which a petition is filed~~ applied for under this section.

Sec. 40. Minnesota Statutes 2008, section 221.122, subdivision 1, is amended to read:

Subdivision 1. **Registration, insurance, and filing requirements.** (a) An order issued by the commissioner which grants a certificate or permit must contain a service date.

(b) The person to whom the order granting the certificate or permit is issued shall do the following within 45 days from the service date of the order:

(1) register vehicles which will be used to provide transportation under the permit or certificate with the commissioner and pay the vehicle registration fees required by law;

(2) file and maintain insurance or bond as required by ~~sections~~ section 221.141 ~~and 221.296~~ and rules of the commissioner; and

(3) file rates and tariffs as required by section 221.161 and rules of the commissioner.

Sec. 41. Minnesota Statutes 2008, section 221.123, is amended to read:

221.123 EFFECT OF DEATH OF HOUSEHOLD GOODS CARRIER PERMIT HOLDER.

This section governs the transfer of a household goods carrier permit in the event of the death of the permit holder. Within one year after the transfer of a permit of a deceased permit holder by the deceased permit holder's personal representative, or within one year after the date of a decree or order issued by the district court transferring the permit of a deceased permit holder, the distributee, as defined in section 524.1-201, who received the permit shall apply to the commissioner to have the permit transferred under the provisions of section 221.151; ~~subdivision 2.~~

If an application to transfer the permit is not filed within the time prescribed above, the permit is revoked and the commissioner shall so notify the person who had received the permit.

Sec. 42. Minnesota Statutes 2008, section 221.132, is amended to read:

221.132 PREPAID TEMPORARY VEHICLE IDENTIFICATION CARD.

For special or extraordinary events, the commissioner may issue a prepaid temporary vehicle identification card to a permit or certificate holder subject to section 221.131, subdivision 2 or 3, for a fee of \$5 per card. The card must be preprinted by the commissioner with the carrier's name, address, and permit or certificate number. The card may be used by the motor carrier to whom it is issued to identify a vehicle temporarily added to its fleet, if the vehicle has evidence of being inspected under section 221.0252, subdivision 3, paragraph (a), clause (2), or under Code of Federal Regulations, title 49, section 396.17 or 396.23, paragraph (b)(1), which are incorporated by reference, within the previous 12 months, or has a current Commercial Vehicle Safety Alliance decal. The card must be executed by the motor carrier by dating and signing the card and describing the vehicle in which it will be carried. The identification card is valid for a period of ten days from the date the motor carrier places on the card when the card is executed. The card must be used within one year from the date of issuance by the commissioner. The card may not be used if the permit or certificate is not in full force and effect. The card may not be transferred. The commissioner may not refund the cost of unused prepaid temporary vehicle identification cards.

Sec. 43. Minnesota Statutes 2008, section 221.151, subdivision 1, is amended to read:

Subdivision 1. **Petition.** (a) Permits, ~~except livestock permits,~~ issued under section 221.121 may be assigned or transferred but only upon the order of the commissioner approving the transfer or assignment ~~after notice and hearing.~~

(b) The proposed seller and buyer or lessor and lessee of a permit, ~~except for livestock carrier permits,~~ shall file a joint notarized petition with the commissioner setting forth the name and address of the parties, the identifying number of the permit, and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a statement of outstanding claims of creditors which are directly attributable to the operation to be conducted under the permit, a copy of the contract of sale or lease, and a financial statement with a balance sheet and an income statement, if existent, of the buyer or lessee. If it appears to the commissioner from the contents of the petition and from the department's records, files, and investigation that the approval of the sale or lease of the permit will not adversely affect the rights of the users of the service, the commissioner may make an order granting the sale or lease. ~~Provided, however, that the commissioner shall make no order granting the sale or lease of a permit to a person or corporation or association which holds a certificate or permit other than local cartage carrier permit from the commissioner under this chapter or to a common carrier by rail.~~

(c) The commissioner shall look to the substance of the transaction rather than the form. An agreement for the transfer or sale of a permit must be reported and filed with the commissioner within 30 days of the agreement.

(d) If an authority to operate as a permit carrier is held by a corporation, a sale, assignment, pledge, or other transfer of the stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of the corporation, as exercised through its stockholders, must be reported in the manner prescribed in the rules of the commissioner within 30 days after the sale, assignment, pledge, or other transfer of stock. The commissioner shall then make a finding whether or not the stock transfer does, in fact, constitute a sale, lease, or other transfer of the permit of the corporation to a new party or parties and, if they so find, then the continuance of the permit issued to the corporation may only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

Sec. 44. Minnesota Statutes 2008, section 221.161, subdivision 1, is amended to read:

Subdivision 1. **Filing; hearing upon board initiative; armored carrier exemption.** ~~(a) Except as provided in paragraph (b),~~ A permit household goods carrier, ~~including a livestock carrier but not including a local cartage carrier,~~ shall file and maintain with the commissioner a tariff showing rates and charges for transporting ~~persons or property~~ household goods. Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section, after notification and investigation by the department, the ~~board~~ commissioner may suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the ~~permit~~ household goods carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the ~~permit~~ household goods carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. ~~Tariffs for transporting livestock are not subject to rejection, suspension, or postponement by the board, except as provided in subdivisions 2 and 3.~~ The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

~~(b) A holder of an armored carrier permit is not required to file a tariff under this subdivision for the service authorized by the armored carrier permit.~~

Sec. 45. Minnesota Statutes 2008, section 221.161, subdivision 4, is amended to read:

Subd. 4. **Hearing on merits of rates and charges.** The commissioner, (1) after a suspension and hearing upon a schedule of rates and charges, or upon complaint, or upon the commissioner's own initiative, either in extension of an existing complaint or without a complaint whatever, (2) after department investigation and petition, (3) upon notice to the permit carrier or tariff agent proposing, maintaining, or charging a schedule of rates and charges on a single group of related commodities, and (4) upon notice to the users of the service and competitive carriers by motor vehicle and rail, may assign for hearing the schedule of rates and charges proposed, maintained, or charged by any or all permit carriers. Upon a finding, after a hearing, that the schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the commissioner may prescribe minimum rates and charges and the rates, rules, and practices thereafter to be maintained and applied by the permit carrier or tariff agent. In the hearing the burden of proof is upon the permit carrier or tariff agent whose schedules of rates and charges are under investigation to show that the schedules are not below a minimum reasonable level or are not noncompensatory. ~~Schedules of rates and charges for the transportation of livestock are not subject to rejection, suspension, postponement, or investigation by the commissioner except as provided in subdivisions 2 and 3.~~

Sec. 46. Minnesota Statutes 2008, section 221.171, is amended to read:

221.171 COMPENSATION OF ~~PERMIT~~ HOUSEHOLD GOODS CARRIER FIXED.

Subdivision 1. **Compensation fixed by schedule on file.** No ~~permit household goods~~ carrier shall charge or receive a greater, lesser, or different compensation for the transportation of persons or property or for related service, than the rates and charges named in the carrier's schedule on file and in effect with the commissioner including any rate fixed by the commissioner under section 221.161; nor shall a ~~permit household goods~~ carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by the carrier under the carrier's schedules or under the rates, if any, fixed by the commissioner.

Subd. 2. **~~Exemptions; household goods.~~** (a) A person engaged in the transportation of household goods for the federal government or an agency of the federal government or the transportation of household goods for the state government or an agency of the state government where competitive bids are required by law is exempt from subdivision 1.

(b) A person engaged in the transportation of household goods at the request of a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code is exempt from subdivision 1 when the transportation is in furtherance of the organization's charitable purpose. A person engaged in the transportation of household goods for a charitable organization may conduct the transportation ~~without restriction to the geographic area the carrier is authorized to serve under section 221.121~~ statewide.

Sec. 47. Minnesota Statutes 2008, section 221.172, subdivision 3, is amended to read:

Subd. 3. **~~Class I, class II, or temperature-controlled commodities carrier; Household goods mover.~~** (a) A ~~class I carrier, class II carrier, household goods mover, and a holder of a temperature-controlled commodities permit~~ shall keep a record of each shipment transported under a ~~certificate or~~ permit. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together.

(b) A record must show the:

(1) names of the consignor and consignee;

- (2) date of shipment;
- (3) origin and destination points;
- (4) ~~number of packages, if applicable to the rating of the freight or if the carrier's operating authority includes a package or article restriction, unless the shipment is transported by a household goods mover;~~
- (5) description of the freight;
- (6) ~~(5) weight, volume, or measurement of the freight, if applicable to the rating of the freight or if the carrier's operating authority includes a weight restriction;~~
- (7) (6) exact rate or rates assessed;
- (8) (7) total charges due, including the nature and amount of any charges for special service; and
- (9) (8) the name of each carrier participating in the transportation; ~~and~~
- (10) ~~after January 1, 1994, any terminals through which the shipment moved.~~

Sec. 48. Minnesota Statutes 2008, section 221.185, subdivision 2, is amended to read:

Subd. 2. **Notice of suspension.** (a) Failure to file and maintain insurance, renew permits under section 221.131, or to pay annual vehicle registration fees ~~or renew permits under section 221.131 or 221.296, or to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, or 221.153, subdivision 3,~~ suspends a motor carrier's permit or certificate two days after the commissioner sends notice of the suspension by certified mail, return receipt requested, to the last known address of the motor carrier.

(b) In order to avoid permanent cancellation of the permit or certificate, the motor carrier must do one of the following within 45 days from the date of suspension:

- (1) comply with the law by filing insurance or bond, renewing permits, or paying vehicle registration fees; or
- (2) request a hearing before the commissioner regarding the failure to comply with the law.

Sec. 49. Minnesota Statutes 2008, section 221.185, subdivision 4, is amended to read:

Subd. 4. **Grounds for cancellation.** Except as provided in subdivision 5a, failure to comply with the requirements of ~~sections section 221.141 and 221.296~~ relating to bonds and insurance, ~~221.131 relating to permit renewal, or 221.131 or 221.296~~ relating to annual vehicle registration or permit renewal, ~~221.121, subdivision 6g, or 221.153, subdivision 3,~~ relating to protective agent or private detective licensure, or failure to request a hearing within 45 days of the date of suspension, is deemed an abandonment of the motor carrier's permit or certificate and the permit or certificate must be canceled by the commissioner.

Sec. 50. Minnesota Statutes 2008, section 221.185, subdivision 5a, is amended to read:

Subd. 5a. **Reinstatement after cancellation.** A motor carrier whose permit or certificate is canceled for failure to comply with ~~sections section 221.141 and 221.296~~ relating to bonds and insurance may ask the commissioner to review the cancellation. Upon review, the commissioner shall rescind the cancellation if (1) the motor carrier presents evidence showing that before the effective date of the notice of cancellation issued under subdivision 5, the motor carrier had obtained and paid for the insurance required by ~~sections section 221.141 and 221.296~~, and the rules of the commissioner, and (2) the commissioner is satisfied that the motor carrier has complied with the requirements of ~~sections section 221.141 and 221.296~~ and the rules of the commissioner.

Sec. 51. Minnesota Statutes 2008, section 221.185, subdivision 9, is amended to read:

Subd. 9. **New petition.** If the holder of a canceled permit or certificate seeks authority to operate as a motor carrier it shall file a petition with the commissioner for a permit or certificate as provided in section 221.121 ~~or 221.296, whichever is applicable.~~

Sec. 52. Minnesota Statutes 2008, section 221.605, subdivision 1, is amended to read:

Subdivision 1. **Federal regulations and state rules.** (a) Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier regulations in Code of Federal Regulations, title 49, parts 40, 382, 383, 387, and 390 through 398, which are incorporated by reference, and with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists. For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

(b) An interstate carrier or private carrier engaged in interstate commerce who complies with federal regulations governing testing for controlled substances and alcohol is exempt from the requirements of sections 181.950 to 181.957 unless the carrier's drug testing program provides for testing for controlled substances in addition to those listed in Code of Federal Regulations, title 49, section 40.85. Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.85, only in accordance with sections 181.950 to 181.957 and rules adopted under those sections.

Sec. 53. Minnesota Statutes 2008, section 221.68, is amended to read:

221.68 REGISTRATION VIOLATIONS; PENALTIES.

Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of ~~Laws 1985, chapter 299, sections 27 to 29~~ section 221.60, 221.65, or 221.67 or any valid order or rule of the commissioner issued hereunder ~~shall be~~ is guilty of a misdemeanor; and, additionally, ~~shall be~~ is subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation ~~shall be~~ is a separate offense.

Sec. 54. Minnesota Statutes 2008, section 221.81, subdivision 3d, is amended to read:

Subd. 3d. **Identification.** ~~(a)~~ A building mover is required to comply with section 221.031, subdivision 6. The mover's name and ~~address~~ USDOT number must be displayed on the power unit of a vehicle used to move buildings and on buildings being moved.

~~(b) Vehicles and buildings must show the name or "doing business as" name of the license holder operating the vehicle and the community and abbreviation of the state in which the license holder maintains its principal office or in which the vehicle is customarily based. If the building mover operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the building mover appears on the vehicle, the words "operated by" must immediately precede the name of the building mover.~~

~~(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle or building is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.~~

Sec. 55. **REVISION OF RULES.**

The commissioner of transportation shall repeal, amend, and adopt revisions to rules relating to motor carriers contained in Minnesota Rules, chapters 7800, 7805, 8850, 8855, and 8920, and may use the expedited process for adopting rules under Minnesota Statutes, section 14.389.

Sec. 56. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change the headnote for Minnesota Statutes, section 221.121, to read "HOUSEHOLD GOODS MOVER PERMIT."

Sec. 57. **REPEALER.**

Minnesota Statutes 2008, sections 169.67, subdivision 6; 169.826, subdivisions 1b and 5; 169.832, subdivisions 11 and 11a; 221.012, subdivisions 2, 3, 6, 7, 11, 12, 21, 23, 24, 30, 32, 39, 40, and 41; 221.031, subdivision 2b; 221.072; 221.101; 221.111; 221.121, subdivisions 2, 3, 5, 6, 6a, 6c, 6d, 6e, and 6f; 221.131, subdivision 2a; 221.141, subdivision 6; 221.151, subdivisions 2 and 3; 221.153; 221.172, subdivisions 4, 5, 6, 7, and 8; and 221.296, subdivisions 3, 4, 5, 6, 7, and 8, are repealed.

Sec. 58. **EFFECTIVE DATE.**

Sections 2, 32, and 54 are effective August 1, 2011."

Delete the title and insert:

"A bill for an act relating to transportation; modifying and updating provisions relating to motor carriers, highways, and the Department of Transportation; making clarifying and technical changes; amending Minnesota Statutes 2008, sections 168.013, subdivision 1e; 168.185; 169.025; 169.801, subdivision 10; 169.823, subdivision 1; 169.824; 169.8261; 169.827; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivisions 1, 2; 169.865, subdivisions 1, 2, 3, 4; 169.866, subdivision 1; 169.87, subdivision 2; 174.64, subdivision 4; 174.66; 221.012, subdivisions 19, 29; 221.021, subdivision 1; 221.022; 221.025; 221.026, subdivisions 2, 5; 221.0269, subdivision 3; 221.031, subdivisions 1, 3, 3c, 6; 221.0314, subdivisions 2, 3a, 9; 221.033, subdivisions 1, 2; 221.121, subdivisions 1, 7; 221.122, subdivision 1; 221.123; 221.132; 221.151, subdivision 1; 221.161, subdivisions 1, 4; 221.171; 221.172, subdivision 3; 221.185, subdivisions 2, 4, 5a, 9; 221.605, subdivision 1; 221.68; 221.81, subdivision 3d; repealing Minnesota Statutes 2008, sections 169.67, subdivision 6; 169.826, subdivisions 1b, 5; 169.832, subdivisions 11, 11a; 221.012, subdivisions 2, 3, 6, 7, 11, 12, 21, 23, 24, 30, 32, 39, 40, 41; 221.031, subdivision 2b; 221.072; 221.101; 221.111; 221.121, subdivisions 2, 3, 5, 6, 6a, 6c, 6d, 6e, 6f; 221.131, subdivision 2a; 221.141, subdivision 6; 221.151, subdivisions 2, 3; 221.153; 221.172, subdivisions 4, 5, 6, 7, 8; 221.296, subdivisions 3, 4, 5, 6, 7, 8."

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 702, 804, 885, 1213, 1270 and 1505 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 140, 247, 536, 556, 1217, 1399, 1425, 1462, 1489 and 1876 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Mahoney introduced:

H. F. No. 2362, A bill for an act relating to construction codes and licensing; creating exemption from State Building Code preemption in certain cases; establishing an advisory committee; requiring a report.

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

Kalin introduced:

H. F. No. 2363, A bill for an act relating to capital improvements; appropriating money for sewer systems and wastewater treatment facilities improvements in the city of Lindstrom; authorizing the issuance of state bonds.

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

Sertich, Carlson, Gunther, Howes and Solberg introduced:

H. F. No. 2364, A bill for an act relating to economic development; amending tax increment financing requirements; authorizing state investment in a loan guaranty fund; creating a loan guaranty program; authorizing issuance of bonds for nonprofit housing; requiring establishment of a second mortgage loan program; authorizing issuance of bonds for sustainable development projects; limiting environmental review for certain projects; requiring certain projects to comply with procurement regulations; providing income tax credits for historic structure rehabilitation on low-income housing projects; authorizing the use of special assessments for energy improvements; extending the JOBZ program to the metropolitan area; appropriating money; amending Minnesota Statutes 2008, sections 11A.24, by adding a subdivision; 15.99, by adding a subdivision; 16C.16, by adding a subdivision; 429.011, by adding subdivisions; 429.021, subdivision 1; 429.031, subdivision 3; 462A.36, subdivisions 1, 2, 4, by adding a subdivision; 469.176, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116J; 290; 462A; repealing Minnesota Statutes 2008, section 469.312, subdivision 3.

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

Anderson, B.; Shimanski; Drazkowski; Kelly; Dettmer; Severson; Kiffmeyer; Hackbarth; Peppin; Smith; Seifert; Beard; Magnus; Torkelson; Demmer; Zellers; Downey and Nornes introduced:

H. F. No. 2365, A resolution memorializing the President of the United States, the United States Secretary of Energy, and the Congress of the United States to review national policy on used nuclear fuel.

The bill was read for the first time and referred to the Energy Finance and Policy Division.

Kahn and Gunther introduced:

H. F. No. 2366, A bill for an act relating to retirement; changing provisions governing certain municipal amortization aid; amending Minnesota Statutes 2008, section 423A.02, subdivision 1.

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

Marquart and Lanning introduced:

H. F. No. 2367, A bill for an act relating to property taxation; providing a property tax abatement for newly-constructed residential structures in flood-damaged areas; appropriating money.

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

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate accedes to the request of the house for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 2123, A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d;

116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

The Senate has appointed as such committee:

Senators Anderson, Saxhaug, Chaudhary, Frederickson and Torres Ray.

Said House File is herewith returned to the House.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

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

S. F. No. 1091, A bill for an act relating to transportation; restricting weight limits on the Stillwater Lift Bridge.

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

Senators Vandever, Murphy and Saltzman.

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

Dean 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. 1091. 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. 1147, A bill for an act relating to real property; modifying provisions governing orders to secure vacant property; specifying notice requirements; modifying provisions governing the reduced redemption period for abandoned property; establishing a duty to protect vacant foreclosed property under certain circumstances; providing for the imposition of fines for failure to maintain property; altering the posting requirement for trespassing on construction sites; modifying provisions governing public nuisances; imposing civil and criminal penalties; amending Minnesota Statutes 2008, sections 463.251, subdivisions 2, 3; 504B.151, subdivision 1; 504B.178,

subdivision 8; 580.021, subdivision 1; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 582.031; 582.032, subdivisions 2, 4, 5; 609.605, subdivision 1; 617.80, subdivision 7, by adding a subdivision; 617.81, subdivisions 2, 4.

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

Senators Higgins, Scheid and Ortman.

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

Hayden 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. 1147. The motion prevailed.

Madam Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1009.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1009, A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, subdivision 12; 609.324, subdivisions 2, 3, 5.

The bill was read for the first time.

Hortman moved that S. F. No. 1009 and H. F. No. 1213, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

CALENDAR FOR THE DAY

H. F. No. 265, A bill for an act relating to disposition of items on death; clarifying certain references; providing for collection of certain property by affidavit; correcting an erroneous reference and making other corrections and clarifications; amending Minnesota Statutes 2008, sections 524.1-304; 524.3-413; 524.3-1201; 524.3-1203, subdivision 5.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

S. F. No. 245 was reported to the House.

Clark moved to amend S. F. No. 245, the first engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 286, as introduced:

"Section 1. Minnesota Statutes 2008, section 62A.15, is amended by adding a subdivision to read:

Subd. 3b. **Acupuncture services.** (a) This subdivision, subdivision 4, and section 62D.107 may be cited as the Equal Access to Acupuncture Act and as a memorial to Edith R. Davis, Minnesota's pioneer acupuncturist.

(b) All benefits provided by a policy or contract referred to in subdivision 1 relating to expenses for acupuncture services that are provided by a physician must also include acupuncture treatment and services of a licensed acupuncture practitioner to the extent that the acupuncture services and treatment are within the scope of acupuncture practitioner licensure.

This subdivision is intended to provide equal access to benefits for insureds and subscribers who choose to directly obtain treatment for illness or injury from a licensed acupuncture practitioner, as long as the treatment falls within the scope of practice of the licensed acupuncture practitioner.

This subdivision is not intended to change or add to the benefits provided for in these policies or contracts.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to coverage issued; renewed; or continued as defined in Minnesota Statutes, section 60A.02, subdivision 2a; on or after that date.

Sec. 2. Minnesota Statutes 2008, section 62A.15, subdivision 4, is amended to read:

Subd. 4. **Denial of benefits.** (a) No carrier referred to in subdivision 1 may, in the payment of claims to employees in this state, deny benefits payable for services covered by the policy or contract if the services are lawfully performed by a licensed chiropractor, licensed optometrist, ~~or~~ a registered nurse meeting the requirements of subdivision 3a, or a licensed acupuncture practitioner.

(b) When carriers referred to in subdivision 1 make claim determinations concerning the appropriateness, quality, or utilization of chiropractic health care for Minnesotans, any of these determinations that are made by health care professionals must be made by, or under the direction of, or subject to the review of licensed doctors of chiropractic.

(c) When a carrier referred to in subdivision 1 makes a denial of payment claim determination concerning the appropriateness, quality, or utilization of acupuncture services for individuals in this state performed by a licensed acupuncture practitioner, a denial of payment claim determination that is made by a health professional must be made by, under the direction of, or subject to the review of a licensed acupuncture practitioner.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to coverage issued; renewed; or continued as defined in Minnesota Statutes, section 60A.02, subdivision 2a; on or after that date.

Sec. 3. **[62D.107] EQUAL ACCESS TO ACUPUNCTURE SERVICES.**

Subdivision 1. **Coverage.** All benefits provided by a health maintenance contract relating to expenses incurred for acupuncture services that are provided by a physician must also include acupuncture treatment and services of a licensed acupuncture practitioner to the extent that the acupuncture services and treatment are within the scope of acupuncture practitioner licensure. This subdivision ensures equal access to benefits for enrollees who choose to directly obtain treatment for illness and injury from a licensed acupuncture practitioner, as long as the treatment falls within the scope of practice of the licensed acupuncture practitioner.

This subdivision is not intended to change or add to the benefits provided for in these policies or contracts.

Subd. 2. **Denial of benefits.** (a) In the payment of claims for enrollees in this state, no health maintenance organization may deny payment for acupuncture services covered by an enrollee's health maintenance contract if the services are lawfully performed by a licensed acupuncture practitioner.

(b) When a health maintenance organization makes a denial of payment claim determination concerning the appropriateness, quality, or utilization of acupuncture services for enrollees in this state performed by a licensed acupuncture practitioner, the determination must be made by, under the direction of, or subject to the review of a licensed acupuncture practitioner.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to coverage issued; renewed; or continued as defined in Minnesota Statutes, section 60A.02, subdivision 2a; on or after that date."

Delete the title and insert:

"A bill for an act relating to insurance; providing equal access to acupuncture and a memorial to Edith R. Davis, Minnesota's pioneer acupuncturist; requiring equal access to acupuncture services by certain group policies and subscriber contracts; requiring claim determinations regarding acupuncture services to be made or reviewed by acupuncture practitioners; requiring reporting on referrals to acupuncture practitioners and reimbursement rates; amending Minnesota Statutes 2008, section 62A.15, subdivision 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62D."

The motion prevailed and the amendment was adopted.

The Speaker called Hortman to the chair.

S. F. No. 245, A bill for an act relating to insurance; providing equal access to acupuncture; requiring equal access to acupuncture services by certain group policies and subscriber contracts; requiring claim determinations regarding acupuncture services to be made or reviewed by acupuncture practitioners; requiring reporting on referrals to acupuncture practitioners and reimbursement rates; amending Minnesota Statutes 2008, section 62A.15, subdivision 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62D.

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 92 yeas and 40 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Dean	Emmer	Kelly	Murdock	Severson
Anderson, P.	Dettmer	Faust	Kiffmeyer	Nornes	Shimanski
Anderson, S.	Dill	Garofalo	Kohls	Norton	Torkelson
Beard	Doepke	Gottwalt	Loon	Peppin	Urdahl
Brod	Downey	Hackbarth	Magnus	Sanders	Zellers
Bunn	Drazkowski	Hamilton	McFarlane	Scott	
Dauids	Eastlund	Hoppe	McNamara	Seifert	

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

S. F. No. 640 was reported to the House.

Rosenthal moved to amend S. F. No. 640, the first engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1539, the first engrossment:

"Section 1. **[103G.408] TEMPORARY DRAWDOWN OF PUBLIC WATERS.**

(a) The commissioner, upon consideration of recommendations and objections as provided in clause (4) and paragraph (c), may issue a public waters work permit for the temporary drawdown of a public water when:

(1) the permit applicant is a public entity;

(2) the commissioner deems the project to be beneficial and makes findings of fact that the drawdown is in the public interest;

(3) the permit applicant has obtained permission from at least 75 percent of the riparian landowners; and

(4) the permit applicant has conducted a public hearing according to paragraph (d).

(b) In addition to the requirements in section 103G.301, subdivision 6, the permit applicant shall serve a copy of the application on each county, municipality, and watershed management organization, if one exists, within which any portion of the public water is located and on the lake improvement district, if one exists.

(c) A county, municipality, watershed district, watershed management organization, or lake improvement district required to be served under paragraph (b) or section 103G.301, subdivision 6, may file a written recommendation for the issuance of a permit or an objection to the issuance of a permit with the commissioner within 30 days after receiving a copy of the application.

(d) The hearing notice for a public hearing under paragraph (a), clause (4), must:

(1) include the date, place, and time for the hearing;

(2) include the waters affected and a description of the proposed project;

(3) be mailed to the director, the county auditor, the clerk or mayor of a municipality, the lake improvement district if one exists, the watershed district or water management organization, the soil and water conservation district, and all riparian owners of record affected by the application; and

(4) be published in a newspaper of general circulation in the affected area.

(e) This section does not apply to public waters that have been designated for wildlife management under section 97A.101."

The motion prevailed and the amendment was adopted.

S. F. No. 640, A bill for an act relating to waters; providing for temporary drawdown of public waters; proposing coding for new law in Minnesota Statutes, chapter 103G.

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 120 yeas and 12 nays as follows:

Those who voted in the affirmative were:

Abeler	Anzelc	Benson	Brod	Buesgens	Champion
Anderson, P.	Atkins	Bigham	Brown	Bunn	Clark
Anderson, S.	Beard	Bly	Brynaert	Carlson	Cornish

Davnie	Hackbarth	Kahn	Magnus	Olin	Slawik
Demmer	Hamilton	Kalin	Mahoney	Otremba	Slocum
Dill	Hansen	Kath	Mariani	Paymar	Smith
Dittrich	Hausman	Kelly	Marquart	Pelowski	Solberg
Doepke	Haws	Kiffmeyer	Masin	Peppin	Sterner
Doty	Hayden	Knuth	McFarlane	Persell	Swails
Downey	Hilstrom	Koenen	McNamara	Peterson	Thao
Drazkowski	Hilty	Kohls	Morgan	Poppe	Thissen
Eastlund	Holberg	Laine	Morrow	Reinert	Tillberry
Eken	Hoppe	Lanning	Mullery	Rosenthal	Torkelson
Falk	Hornstein	Lenczewski	Murdock	Rukavina	Urdahl
Faust	Hortman	Lesch	Murphy, E.	Ruud	Wagenius
Fritz	Hosch	Liebling	Murphy, M.	Sailer	Ward
Gardner	Huntley	Lieder	Nelson	Sanders	Welti
Gottwalt	Jackson	Lillie	Nornes	Scalze	Westrom
Greiling	Johnson	Loeffler	Norton	Sertich	Winkler
Gunther	Juhnke	Loon	Obermueller	Simon	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dean	Emmer	Howes	Seifert	Shimanski
Dauids	Dettmer	Garofalo	Scott	Severson	Zellers

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

S. F. No. 729 was reported to the House.

Zellers moved to amend S. F. No. 729, the first engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 940, the second engrossment:

"Section 1. Minnesota Statutes 2008, section 383B.29, subdivision 2, is amended to read:

Subd. 2. **Duties.** (a) The board shall establish rules for the classified service with the assistance of the human resources director. All rules and amendments proposed by the board shall be subject to public hearing upon prior notice to department heads, employees, affected labor organizations, and the public, as the board may, by rule prescribe. The rules as approved by the majority vote of the board shall be submitted to the county board for approval or rejection. When approved, by majority vote and in the form of a written resolution, the rules shall have the force and effect of law. The rules may be amended and repealed with the consent of the county board in the same manner as provided for original adoption.

(b) The rules shall provide for:

(1) selection methods and the establishment of lists to fill positions in the county service including promotion;

(2) the appointment of qualified candidates to vacant positions, if the vacancy is not filled by recall from the layoff list, demotion, reinstatement, reassignment, transfer from other employers or with county service. Whenever practicable, vacancies must be filled by promotion. The 20 persons having the highest qualifications that meet the requirements of the position to be filled, when available, must be referred to appointing authority when a vacancy occurs;

(3) a period of probation during which period the probationer may be discharged or demoted, without right of appeal. The period of probation, which is determined by the department director and the human resources director, must not exceed six 12 months unless changed by six sevenths approval of approved by the board due to extreme or unique conditions;

(4) seasonal, provisional, temporary, and emergency appointments. The appointments, except seasonal, must not exceed six calendar months in any 12-month period. Seasonal appointments must not exceed nine calendar months in any 12-month period;

(5) voluntary demotion; reassignment; transfers from within county service or other employers; and reinstatement of persons who without fault or delinquency on their part are separated from the service or demoted;

(6) a compensation plan for classes and positions not represented by an exclusive bargaining representative to be presented to the county board for approval;

(7) a classification plan for positions in the county service to be presented to the county board for approval;

(8) leaves of absence with or without pay; layoffs; hours of employment; vacations and sick leave; severance pay, and other benefits and emoluments as may improve the public service;

(9) suspensions without pay for disciplinary purposes, discharges, or demotion of a permanent employee only when the person has been presented with written charges and has been allowed a hearing;

(10) establishment of reasonable fees, not to exceed the actual cost of service or material provided;

(11) establishment of rules of conduct that are conditions of employment in the county service; ~~and~~

(12) policies to deal with falsification of an application or record to improve prospects for employment or with interference with the selection process; and

~~(13) a panel of three department directors, randomly selected from outside the employee's department, to hear and decide nondisciplinary appeals within the jurisdiction of the board rules, if there has been a preliminary showing to the board county attorney that a rule violation has occurred, except appeals relating to layoffs shall be heard by the board. Any such board attorney ruling may be appealed to the board.~~

Sec. 2. Minnesota Statutes 2008, section 383B.31, is amended to read:

383B.31 DUTIES OF HUMAN RESOURCES DIRECTOR.

(a) The director as administrator of the Human Resources Department shall cooperate with and assist department heads and elected officials in providing an effective human resources program. The director shall direct and supervise all of the Human Resources Department's administrative and technical activities in addition to the duties imposed on the director in sections 383B.26 to 383B.42.

(b) The director shall:

(1) attend the meetings of the board, act as its secretary and maintain its official records;

(2) appoint the employees of the Human Resources Department in accordance with and subject to the provisions of sections 383B.26 to 383B.42; and

(3) recommend rules and amendments to rules for the administration of sections 383B.26 to 383B.42.

(c) The director shall establish uniform procedures and standards to:

(1) prepare, recommend and maintain a classification plan which shall group all positions in the county into classes;

(2) prepare, recommend, and maintain a compensation plan for the county service;

(3) except as provided in clauses (4) and (5), develop and hold competitive examinations to determine the qualifications of persons seeking employment in any class and to establish lists of those passing such examinations;

(4) develop a procedure and define the criteria for the selection and referral of qualified applicants to fill positions in classifications involving unskilled tasks or in classifications which require state licensure or certification to engage in the activity;

(5) establish alternative selection procedures to measure the ability of persons whose disabilities are so severe that the usual selection process cannot adequately predict job performance;

(6) when a vacancy is to be filled, to certify to the appointing authority upon requisition, the names of the persons highest on the appropriate layoff list, or if there is no such list, the appropriate eligible list for the class;

(7) maintain records necessary for the proper administration of sections 383B.26 to 383B.42;

(8) provide a system for checking payrolls and accounts for the payment of compensation to employees in the classified and unclassified service so as to enable the director, upon evidence thereof, to certify or cause to be certified the persons whose names appear thereon have been employed or on authorized leave before payment may be lawfully made to such employees;

(9) make investigations concerning the administration of sections 383B.26 to 383B.42 and rules made thereunder, and take corrective actions as deemed reasonable and appropriate to the situation;

(10) make investigations and reports required by the county board and report thereon; and

(11) make an annual report to the county board and the Human Resources Board on the activities of the Human Resources Department.

(d) The classification plan authorized in paragraph (c), clause (1), is effective on approval by the county board.

(e) The compensation plan authorized in paragraph (c), clause (2), may include benefits and other emoluments to improve the public service as determined by the human resources director. ~~A The plan that is approved effective on approval by a majority vote of the Human Resources Board is a recommendation to the county board which may approve or reject all or part of it.~~

(f) The examination process described in paragraph (c), clause (3), must provide for: (1) the rejection of otherwise eligible applicants or candidates who fail to comply with the reasonable requirements of the human resources director; and (2) examinations that may consist of any one or a combination of the following: written or oral tests of the subjective or objective type, physical tests, practical or demonstration tests, or evaluation of past training and experience. Oral tests, either of the question and answer type, or the interview type, may be used to test the candidates.

(g) The classifications described in paragraph (c), clause (4), must be authorized by the county board. Applicants to fill vacancies in the classifications are exempt from ranking and certification provided for in section 383B.29, subdivision 2, paragraph (b), clause (2). The director shall refer all qualified applicants to the appointing authority having vacancies in the appropriate classifications.

Sec. 3. Laws 2006, chapter 218, section 6, is amended to read:

Sec. 6. **SUNSET.**

The implementation and steering task force established in section 2 expires on December 31, ~~2009~~ 2011.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 and 2 are effective upon compliance by the Hennepin County Board of Commissioners with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Delete the title and insert:

"A bill for an act relating to Hennepin County; modifying personnel rules and procedures; extending the sunset date of the Victory Memorial Drive Historic District task force; amending Minnesota Statutes 2008, sections 383B.29, subdivision 2; 383B.31; Laws 2006, chapter 218, section 6."

The motion prevailed and the amendment was adopted.

S. F. No. 729, A bill for an act relating to Hennepin County; modifying personnel rules and procedures; amending Minnesota Statutes 2008, sections 383B.27, subdivision 16; 383B.29, subdivision 2; 383B.31.

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 128 yeas and 4 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Buesgens Dean Emmer Holberg

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

S. F. No. 708 was reported to the House.

Mullery moved to amend S. F. No. 708, the second engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 903, the first engrossment:

"Section 1. Minnesota Statutes 2008, section 325N.01, is amended to read:

325N.01 DEFINITIONS.

The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.09.

(a) "Foreclosure consultant" means any person who, directly or indirectly, makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

- (1) stop or postpone the foreclosure sale;
- (2) obtain any forbearance from any beneficiary or mortgagee;
- (3) assist the owner to exercise the right of reinstatement provided in section 580.30;
- (4) obtain any extension of the period within which the owner may reinstate the owner's obligation;
- (5) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;
- (6) assist the owner in foreclosure or loan default to obtain a loan or advance of funds;
- (7) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale; ~~or~~
- (8) save the owner's residence from foreclosure; or
- (9) negotiate or modify the terms or conditions of an existing residential mortgage loan.

(b) A foreclosure consultant does not include any of the following:

- (1) a person licensed to practice law in this state when the person renders service in the course of his or her practice as an attorney-at-law;
- (2) a person licensed as a debt management services provider under chapter 332A, when the person is acting as a debt management services provider as defined in that chapter;

(3) a person licensed as a real estate broker or salesperson under chapter 82 when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure;

(4) a person licensed as an accountant under chapter 326A when the person is acting in any capacity for which the person is licensed under those provisions;

(5) a person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services;

(6) a person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

(7) any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities while engaged in the business of these persons or entities;

(8) a person licensed as a residential mortgage originator or servicer pursuant to chapter 58, when acting under the authority of that license, except that the provisions of section 325N.04, clause (1), shall apply to any person operating under a mortgage originator license who negotiates or offers to negotiate the terms or conditions of an existing residential mortgage loan;

(9) a nonprofit agency or organization that has tax-exempt status under section 501(c)(3) of the Internal Revenue Code that offers counseling or advice to an owner of a home in foreclosure or loan default if they do not contract for services with for-profit lenders or foreclosure purchasers, except that they shall comply with the provisions of section 325N.04, clause (1);

(10) a judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 580.03, but excluding a person who purchased the claim after such personal service; and

(11) a foreclosure purchaser as defined in section 325N.10.

(c) "Foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the residence in foreclosure or any other real property, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

(d) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Service" means and includes, but is not limited to, any of the following:

(1) debt, budget, or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure;

(3) ~~contacting creditors on behalf of an owner of a residence in foreclosure~~ or servicers to negotiate or offer to negotiate the terms or conditions of an existing residential mortgage loan;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure the owner's default and reinstate his or her obligation pursuant to section 580.30;

(5) arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court; or

(7) giving any advice, explanation, or instruction to an owner of a residence in foreclosure, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power of sale contained in any mortgage.

(f) "Residence in foreclosure" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as his or her principal place of residence, where there is a delinquency or default on any loan payment or debt secured by or attached to the residential real property including, but not limited to, contract for deed payments.

(g) "Owner" means the record owner of the residential real property in foreclosure at the time the notice of pendency was recorded, or the summons and complaint served.

(h) "Contract" means any agreement, or any term in any agreement, between a foreclosure consultant and an owner for the rendition of any service as defined in paragraph (e).

EFFECTIVE DATE. This section is effective 30 days after the date of enactment."

The motion prevailed and the amendment was adopted.

Mullery, Davids and Zellers moved to amend S. F. No. 708, the second engrossment, as amended, as follows:

Page 4, after line 13, insert:

"Sec. 2. Minnesota Statutes 2008, section 580.07, is amended to read:

580.07 POSTPONEMENT.

Subdivision 1. Postponement by mortgagee. The sale may be postponed, from time to time, by the party conducting the foreclosure, by inserting a notice of the postponement, as soon as practicable, in the newspaper in which the original advertisement was published, at the expense of the party requesting the postponement. The notice shall be published only once.

Subd. 2. Postponement by mortgagor or owner. (a) If all or a part of the property to be sold is classified as homestead under section 273.124 and contains one to four dwelling units, the mortgagor or owner may postpone the sale to the first date that is not a Saturday, Sunday, or legal holiday and is five months after the originally scheduled date of sale in the manner provided in this subdivision. To postpone a foreclosure sale pursuant to this subdivision, at any time after the first publication of the notice of mortgage foreclosure sale under section 580.03 but at least 15 days prior to the scheduled sale date specified in that notice, the mortgagor shall: (1) execute a sworn affidavit in the form set forth in subdivision 3, (2) record the affidavit in the office of each county recorder and registrar of titles where the mortgage was recorded, and (3) file with the sheriff conducting the sale and deliver to the attorney foreclosing the mortgage, a copy of the recorded affidavit, showing the date and office in which the affidavit was recorded. Recording of the affidavit and postponement of the foreclosure sale pursuant to this subdivision shall automatically reduce the mortgagor's redemption period under section 580.23 to five weeks. The postponement of a foreclosure sale pursuant to this subdivision does not require any change in the contents of the notice of sale, service of the notice of sale if the occupant was served with the notice of sale prior to postponement under this subdivision, or publication of the notice of sale if publication was commenced prior to postponement under this subdivision, notwithstanding the service and publication time periods specified in section 580.03, but the sheriff's certificate of sale shall indicate the actual date of the foreclosure sale and the actual length of the mortgagor's redemption period. No notice of postponement need be published. An affidavit complying with subdivision 3 shall be prima facie evidence of the facts stated therein, and shall be entitled to be recorded. The right to postpone a foreclosure sale pursuant to this subdivision may be exercised only once, regardless whether the mortgagor reinstates the mortgage prior to the postponed mortgage foreclosure sale.

(b) If the automatic stay under United States Code, title 11, section 362, applies to the mortgage foreclosure after a mortgagor or owner requests postponement of the sheriff's sale under this section, then when the automatic stay is no longer applicable, the mortgagor's or owner's election to shorten the redemption period to five weeks under this section remains applicable to the mortgage foreclosure.

Subd. 3. Affidavit form. The affidavit referred to in subdivision 2 shall be in substantially the following form and shall contain all of the following information.

STATE OF _____

COUNTY OF _____

_____ (whether one or more, "Owner"), being first duly sworn on oath, states as follows:

1. (He is) (She is) (They are) the owner(s) or mortgagor(s) of the real property (the "Property") situated in _____ (Name of) County, Minnesota, legally described in the attached published Notice of Mortgage Foreclosure Sale (the "Notice"), and make this affidavit for the purpose of postponing the foreclosure sale of the Property pursuant to Minnesota Statutes, section 580.07, subdivision 2, for five months from the date scheduled in the attached Notice.

2. The Property is classified as homestead under Minnesota Statutes, section 273.124, is occupied by Owner as a homestead, and is improved with not more than four dwelling units.

3. Owner has elected to shorten Owner's redemption period from any foreclosure sale of the Property to five weeks in exchange for the postponement of the foreclosure sale for five months.

_____ (signature(s) of owner)

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement).

_____ (signature of notary public)

Notary Public

EFFECTIVE DATE. This section is effective one month after the date of final enactment, and applies to foreclosure sales scheduled to occur on or after said effective date."

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. 708, A bill for an act relating to mortgages; modifying provisions relating to foreclosure consultants; amending Minnesota Statutes 2008, section 325N.01.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Holberg

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

S. F. No. 412 was reported to the House.

Jackson moved to amend S. F. No. 412, as introduced, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 632, the first engrossment:

"Section 1. Minnesota Statutes 2008, section 524.5-107, is amended to read:

524.5-107 TRANSFER OF JURISDICTION.

(a) Following the appointment of a guardian or conservator or entry of another protective order, the court making the appointment or entering the order may transfer the proceeding to a court ~~in~~ or another county in this state or in the case of a minor to another state if the court is satisfied that a transfer will serve the best interest of the ward or protected person.

(b) A guardian of a minor, conservator of a minor, or like fiduciary for a minor appointed in another state may petition the court for appointment as a guardian or conservator in this state if the state has jurisdiction. The appointment may be made upon proof of appointment in the other state and presentation of a certified copy of the portion of the court record in the other state specified by the court in this state. Notice of hearing on the petition, together with a copy of the petition, must be given to the ward or protected person, if the ward or protected person has attained 14 years of age, and to the persons who would be entitled to notice if the regular procedures for appointment of a guardian or conservator under this article were applicable. The court shall make the appointment in this state unless it concludes that the appointment would not be in the best interest of the ward or protected person. Upon the filing of an acceptance of office and any required bond, the court shall issue appropriate letters of guardianship or conservatorship. Within 14 days after an appointment, the guardian or conservator shall send or deliver a copy of the order of appointment to the ward or protected person, if the ward or protected person has attained 14 years of age, and to all persons given notice of the hearing on the petition.

Sec. 2. **524.5-601 SHORT TITLE.**

Sections 524.5-601 to 524.5-903 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act."

Sec. 3. **524.5-602 DEFINITIONS.**

(a) The definitions in this section apply to sections 524.5-602 to 524.5-903.

(b) "Adult" means an individual who has attained 18 years of age.

(c) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under sections 524.5-101 to 524.5-502.

(d) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under sections 524.5-101 to 524.5-502.

(e) "Guardianship order" means an order appointing a guardian.

(f) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(g) "Incapacitated person" means an adult for whom a guardian has been appointed.

(h) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

(i) "Person," except in the term incapacitated person or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(j) "Protected person" means an adult for whom a protective order has been issued.

(k) "Protective order" means an order appointing a conservator or any other order related to management of an adult's property.

(l) "Protective proceeding" means a judicial proceeding in which an protective order is sought or has been issued.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(o) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 4. **[524.5-603] INTERNATIONAL APPLICATION.**

A court of this state may treat a foreign country as if it were a state for the purpose of applying sections 524.5-601 to 524.5-903.

Sec. 5. **[524.5-604] COMMUNICATION BETWEEN COURTS.**

(a) A court of this state may communicate with a court in another state concerning a proceeding arising under sections 524.5-601 to 524.5-903. The court may allow the parties to participate in the communication. Except as otherwise provided in paragraph (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

Sec. 6. **[524.5-605] COOPERATION BETWEEN COURTS.**

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any one or more of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order any appropriate investigation of a person involved in a proceeding;

(5) forward to the court of this state a certified copy of the transcript or other record of a hearing under clause (1) or any other proceeding, any evidence otherwise produced under clause (2), and any evaluation or assessment prepared in compliance with an order under clause (3) or (4);

(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; and

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in Code of Federal Regulations, title 45, section 164.504.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in paragraph (a), a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 7. **[524.5-606] TAKING TESTIMONY IN ANOTHER STATE.**

(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

Sec. 8. **[524.5-701] DEFINITIONS; SIGNIFICANT CONNECTION FACTORS.**

(a) In sections 524.5-701 to 524.5-709:

(1) "emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition; and

(3) "significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under sections 534.5-703 and 524.5-801, paragraph (e), whether a respondent has a significant connection with a particular state, the court shall consider:

(1) the location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) the length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) the location of the respondent's property; and

(4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

Sec. 9. **[524.5-702] EXCLUSIVE BASIS.**

Sections 524.5-701 to 524.5-709 provide the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

Sec. 10. **[524.5-703] JURISDICTION.**

A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this state is the respondent's home state;

(2) on the date the petition is filed, this state is a significant-connection state and:

(i) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(ii) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

(A) a petition for an appointment or order is not filed in the respondent's home state;

(B) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(C) the court in this state concludes that it is an appropriate forum under the factors set forth in section 524.5-706;

(3) this state does not have jurisdiction under either clause (1) or (2), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) the requirements for special jurisdiction under section 524.5-704 are met.

Sec. 11. **[524.5-704] SPECIAL JURISDICTION.**

(a) A court of this state lacking jurisdiction under section 524.5-703 has special jurisdiction to do any of the following:

(1) appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in this state;

(2) issue a protective order with respect to real or tangible personal property located in this state; and

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 524.5-801.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

Sec. 12. **[524.5-705] EXCLUSIVE AND CONTINUING JURISDICTION.**

Except as otherwise provided in section 524.5-704, a court that has appointed a guardian or issued a protective order consistent with sections 524.5-601 to 524.5-903 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

Sec. 13. **[524.5-706] APPROPRIATE FORUM.**

(a) A court of this state having jurisdiction under section 524.5-703 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of this state declines to exercise its jurisdiction under paragraph (a), it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) any expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court in each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

Sec. 14. **[524.5-707] JURISDICTION DECLINED BY REASON OF CONDUCT.**

(a) If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(i) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(ii) whether it is a more appropriate forum than the court of any other state under the factors set forth in section 524.5-706, paragraph (c); and

(iii) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 524.5-703.

(b) If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 524.5-601 to 524.5-903.

Sec. 15. **[524.5-708] NOTICE OF PROCEEDING.**

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

Sec. 16. **[524.5-709] PROCEEDINGS IN MORE THAN ONE STATE.**

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under section 524.5-704, paragraph (a), clause (1) or (2), if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 524.5-703, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 524.5-703 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 524.5-703, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

Sec. 17. **[524.5-801] TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.**

(a) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under paragraph (a) must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to paragraph (a).

(d) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 524.5-701, paragraph (b);

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person's property.

(f) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 524.5-802; and

(2) the documents required to terminate a guardianship or conservatorship in this state.

Sec. 18. [524.5-802] ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE.

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to section 524.5-801, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under paragraph (a) must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to paragraph (a).

(d) The court shall issue an order provisionally granting a petition filed under paragraph (a) unless:

(1) an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this state.

(e) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 524.5-801 transferring the proceeding to this state.

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under sections 524.5-101 to 524.5-502 if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Sec. 19. **[524.5-901] REGISTRATION OF GUARDIANSHIP ORDERS.**

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

Sec. 20. **[524.5-902] REGISTRATION OF PROTECTIVE ORDERS.**

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

Sec. 21. **[524.5-903] EFFECT OF REGISTRATION.**

(a) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A court of this state may grant relief available under sections 524.5-601 to 524.5-903 and other law of this state to enforce a registered order.

Sec. 22. **EFFECTIVE DATE.**

Sections 1 to 21 are effective January 1, 2010, and apply to guardianship and protective proceedings begun on or after that date, except that Minnesota Statutes, sections 524.5-601 to 524.5-606 and 524.5-801 to 524.5-903, apply to proceedings begun before that date, regardless of whether a guardianship or protective order has been issued."

Delete the title and insert:

"A bill for an act relating to probate; enacting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; changing certain jurisdiction transfer provisions; amending Minnesota Statutes 2008, section 524.5-107; proposing coding for new law in Minnesota Statutes, chapter 524."

The motion prevailed and the amendment was adopted.

S. F. No. 412, A bill for an act relating to probate; enacting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; proposing coding for new law in Minnesota Statutes, chapter 524.

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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

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

H. F. No. 1275, A bill for an act relating to environment; modifying sewage treatment systems provisions; changing terminology; amending Minnesota Statutes 2008, sections 115.55, subdivisions 1, 2, 3, 4, 5, 5a, 5b, 6, 9; 115.56, subdivisions 1, 2, 3; 326B.46, subdivision 2; repealing Minnesota Statutes 2008, sections 115.55, subdivision 10; 115.56, subdivision 2a.

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 99 yeas and 34 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Demmer	Gottwalt	Kiffmeyer	Peppin	Torkelson
Anderson, P.	Dettmer	Hackbarth	Kohls	Scott	Urdahl
Beard	Doepke	Hamilton	Magnus	Seifert	Westrom
Brod	Drazkowski	Holberg	Murdock	Severson	Zellers
Buesgens	Eastlund	Hoppe	Nornes	Shimanski	
Dean	Emmer	Kelly	Olin	Smith	

The bill was passed and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1309

A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; modifying previous appropriations provisions; modifying various provisions related to transportation finance and policy; modifying provisions related to speed limits, fracture-critical bridges, transit, passenger rail, motor vehicle lease sales tax revenue allocations, transit services, and the Buffalo Ridge Regional Rail Authority; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2;

161.081, by adding a subdivision; 161.36, subdivision 7, as added; 162.12, subdivision 2; 169.14, by adding a subdivision; 174.24, subdivision 1a, by adding a subdivision; 174.50, by adding a subdivision; 297A.815, subdivision 3; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, section 5; proposing coding for new law in Minnesota Statutes, chapters 161; 174.

May 3, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1309 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1309 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$98,385,000</u>	<u>\$95,885,000</u>	<u>\$194,270,000</u>
<u>Airports</u>	<u>21,909,000</u>	<u>19,659,000</u>	<u>41,568,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>	<u>1,021,264,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>	<u>275,403,000</u>
<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>	<u>98,076,000</u>
<u>H.U.T.D.</u>	<u>9,538,000</u>	<u>9,838,000</u>	<u>19,376,000</u>
<u>Trunk Highway</u>	<u>1,264,921,000</u>	<u>1,372,687,000</u>	<u>2,637,608,000</u>
<u>Total</u>	<u>\$2,074,580,000</u>	<u>\$2,212,985,000</u>	<u>\$4,287,565,000</u>

Sec. 2. **TRANSPORTATION APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the trunk highway fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean

that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

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

Sec. 3. **DEPARTMENT OF TRANSPORTATION**

Subdivision 1. **Total Appropriation**

\$1,848,892,000

\$1,987,197,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>18,191,000</u>	<u>15,691,000</u>
<u>Airports</u>	<u>21,859,000</u>	<u>19,609,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>
<u>Trunk Highway</u>	<u>1,178,053,000</u>	<u>1,286,019,000</u>

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

Subd. 2. **Multimodal Systems**

(a) **Aeronautics**

(1) **Airport Development and Assistance**

16,548,000

14,298,000

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

Notwithstanding Minnesota Statutes, section 360.305, subdivision 4, paragraph (c), of the appropriation in fiscal year 2010, the commissioner may provide a local contribution for aeronautics project elements if:

(1) federal funds are made available for the project in federal fiscal year 2009 by the United States Department of Transportation, Federal Aviation Administration from the airport improvement program under United States Code, title 49, section 47101, et seq.;

(2) the project requires a five percent match from nonfederal sources; and

(3) the airport is not classified as a key system airport, as provided in Minnesota Statutes, section 360.305, subdivision 3.

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

If the appropriation for either year does not exhaust the balance in the state airports fund, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purpose of airport development and assistance and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

(2) Aviation Support and Services 6,123,000 6,123,000

Appropriations by Fund

<u>Airports</u>	<u>5,286,000</u>	<u>5,286,000</u>
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<u>Trunk Highway</u>	<u>837,000</u>	<u>837,000</u>
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\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

(b) Transit 18,036,000 15,536,000

Appropriations by Fund

<u>General</u>	<u>17,261,000</u>	<u>14,761,000</u>
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<u>Trunk Highway</u>	<u>775,000</u>	<u>775,000</u>
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The base appropriation from the general fund for fiscal years 2012 and 2013 is \$17,261,000 for each year.

Of these appropriations from the general fund, \$19,300 in each year is for the administrative expenses of the Minnesota Council on Transportation Access, and for other costs relating to the preparation of required reports, including the costs of hiring a consultant, if the council is created.

(c) Commuter and Passenger Rail 500,000 500,000

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

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

Appropriations by Fund

General 365,000 365,000

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

The commissioner of transportation shall enter into an agreement to either forgive any money due (approximately \$2,851,118) on loan agreements 65572 and 67106 or convert the loans to grants. The loans were made to the Buffalo Ridge Regional Railroad Authority, which was established by Rock and Nobles Counties, to enable the counties to purchase and rehabilitate 41.4 miles of rail line providing transportation service to the counties. The agreement must ensure that all terms, provisions, and conditions of the loan agreements are deemed to be fully satisfied and performed on the part of the railroad authority and counties. If the railroad authority sells all or any part of the rail line that has been rehabilitated with either of the loans, the railroad authority must pay the net proceeds to the commissioner, up to the amount loaned.

Subd. 3. State Roads

(a) **Infrastructure Operations and Maintenance** 251,643,000 245,892,000

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

(b) **Infrastructure Investment and Planning**

(1) **Infrastructure Investment Support** 201,461,000 196,935,000

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

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

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

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

(2) State Road Construction

551,300,000

598,700,000

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

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

Appropriations by Fund

Federal Highway

<u>Aid</u>	<u>301,100,000</u>	<u>388,500,000</u>
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Highway User

<u>Taxes</u>	<u>250,200,000</u>	<u>210,200,000</u>
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The commissioner of transportation shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of any significant events that should cause these estimates to change.

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

The commissioner shall expend up to one-half of one percent of the federal appropriations under this paragraph as grants to opportunity industrialization centers and other nonprofit job training centers for job training programs related to highway construction.

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

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

(3) **Highway Debt Service** 101,170,000 173,400,000

\$86,517,000 the first year and \$157,304,000 the second year are for transfer to the state bond fund. If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation. Any excess appropriation cancels to the trunk highway fund.

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

Appropriations by Fund

<u>General</u>	<u>9,000</u>	<u>9,000</u>
<u>Trunk Highway</u>	<u>5,168,000</u>	<u>5,168,000</u>

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

Subd. 4. **Local Roads**

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

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

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

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

(c) **State Aid Appropriation Adjustments**

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

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

Subd. 5. General Support and Services

(a) **Department Support** 43,440,000 42,449,000

Appropriations by Fund

Airports 25,000 25,000

Trunk Highway 43,415,000 42,424,000

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

(b) **Buildings** 17,443,000 17,047,000

Appropriations by Fund

General 56,000 56,000

Trunk Highway 17,387,000 16,991,000

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

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

Subd. 6. Transfers

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

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

Subd. 7. Use of State Road Construction Appropriations

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

The commissioner must allocate money appropriated in this section so as to maximize the use of all available federal money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and to the extent possible, any other federal funding.

Subd. 8. Contingent Appropriation

The commissioner of transportation, with the approval of the governor and the written approval of at least five members of a group consisting of: (1) the members of the Legislative Advisory Commission under Minnesota Statutes, section 3.30; and (2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance, may transfer all or part of the unappropriated balance in the trunk highway fund to an appropriation (1) for trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund or to take advantage of federal advanced construction funding, (2) for trunk highway maintenance in order to meet an emergency, or (3) to pay tort or environmental claims. Nothing in this subdivision authorizes the commissioner to increase the use of federal advanced construction funding beyond amounts specifically authorized. Any transfer as a result of the use of federal advanced construction funding must include an analysis of the effects on the long-term trunk highway fund balance. The amount transferred is appropriated for the purpose of the account to which it is transferred.

Subd. 9. Appropriations Carryforward

Notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, the commissioner may carry forward to fiscal years 2010 and 2011 any unexpended and unencumbered operating balances from trunk highway appropriations for fiscal year 2009.

Subd. 10. Use of Trunk Highway Fund

No transfer or expenditure of trunk highway funds may be made for the purpose of paying personnel costs incurred on behalf of the Governor's Office.

Subd. 11. Disadvantaged Business Enterprise Program

The commissioner shall, in utilizing these appropriations, comply in all respects with Minnesota Statutes, section 174.03, subdivision 11.

Sec. 4. METROPOLITAN COUNCIL**Subdivision 1. Total Appropriation****\$72,235,000****\$72,235,000**

The appropriations in this section are from the general fund.

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

Subd. 2. Bus Transit66,942,00066,942,000

This appropriation is for bus system operations.

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

Of this amount, \$80,700 in each year is for the administrative expenses of the Minnesota Council on Transportation Access, and for other costs relating to the preparation of required reports, including the costs of hiring a consultant, if the council is created.

Subd. 3. Rail Operations5,293,0005,293,000**Sec. 5. DEPARTMENT OF PUBLIC SAFETY****Subdivision 1. Total Appropriation****\$152,478,000****\$152,578,000**Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>7,959,000</u>	<u>7,959,000</u>

<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>
<u>H.U.T.D.</u>	<u>9,413,000</u>	<u>9,713,000</u>
<u>Trunk Highway</u>	<u>86,068,000</u>	<u>85,868,000</u>

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

Subd. 2. Administration and Related Services

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

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

<u>(b) Public Safety Support</u>	<u>8,168,000</u>	<u>8,168,000</u>
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Appropriations by Fund

<u>General</u>	<u>3,296,000</u>	<u>3,296,000</u>
<u>H.U.T.D.</u>	<u>1,366,000</u>	<u>1,366,000</u>
<u>Trunk Highway</u>	<u>3,506,000</u>	<u>3,506,000</u>

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

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

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

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

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

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

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

Appropriations by Fund

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

Subd. 3. State Patrol

(a) **Patrolling Highways** 71,522,000 71,522,000

Appropriations by Fund

<u>General</u>	<u>37,000</u>	<u>37,000</u>
<u>H.U.T.D.</u>	<u>92,000</u>	<u>92,000</u>
<u>Trunk Highway</u>	<u>71,393,000</u>	<u>71,393,000</u>

(b) **Commercial Vehicle Enforcement** 7,996,000 7,796,000

This appropriation is from the trunk highway fund.

\$800,000 the first year and \$600,000 the second year are for the Office of Pupil Transportation Safety.

(c) **Capitol Security** 3,113,000 3,113,000

This appropriation is from the general fund.

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

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

Subd. 4. Driver and Vehicle Services

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

Appropriations by Fund

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

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

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

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

Appropriations by Fund

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

Trunk Highway 1,000 1,000

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

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

The commissioner of public safety shall spend 50 percent of the money available to the state under Public Law 105-206, section 164, and the remaining 50 percent must be transferred to the commissioner of transportation for hazard elimination activities under United States Code, title 23, section 152.

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

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

Subd. 7. Use of Trunk Highway Fund

No transfer or expenditure of trunk highway funds may be made for the purpose of paying personnel costs incurred on behalf of the Governor's Office.

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

Appropriations by Fund

<u>Trunk Highway</u>	<u>200,000</u>	<u>200,000</u>
<u>H.U.T.D.</u>	<u>125,000</u>	<u>125,000</u>
<u>Airports</u>	<u>50,000</u>	<u>50,000</u>

The appropriations in this section may only be spent with the approval of the governor and the written approval of at least five members of a group consisting of (1) the members of the Legislative Advisory Commission under Minnesota Statutes, section 3.30, and (2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance.

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

Sec. 7. **TORT CLAIMS** **\$600,000** **\$600,000**

This appropriation is to the commissioner of finance.

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

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

Subd. 2. **Multimodal Systems**

(a) **Aeronautics**

(1) **Airport Development and Assistance** **20,298,000** **5,298,000**

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

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

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

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

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

(2) Aviation Support and Services

Appropriations by Fund

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

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

(b) Transit

Appropriations by Fund

General	18,813,000	18,816,000 <u>21,316,000</u>
Trunk Highway	740,000	761,000

Of the appropriation in fiscal year 2009, \$2,500,000 may be expended for financial assistance under Minnesota Statutes, section 174.24, notwithstanding the payment schedule under Minnesota Statutes, section 174.24, subdivision 5.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for fiscal years 2010 and 2011.

(c) Freight

Appropriations by Fund

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

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

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

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

\$55,000,000 in fiscal year 2008 and ~~\$77,000,000~~ \$33,000,000 in fiscal year 2009 are appropriated to the commissioner of transportation from the trunk highway fund for the purposes specified in the federal grants and aids related to the I-35W bridge collapse on marked Interstate Highway I-35W in Minneapolis. The appropriation in

fiscal year 2009 is available for other trunk highway construction projects. This appropriation is in addition to appropriations under Laws 2007, chapter 143, article 1, section 3, and Laws 2007, First Special Session chapter 2, article 2, section 2.

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

Sec. 10. **METROPOLITAN LIVABLE COMMUNITIES FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, sections 473.25 to 473.255, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 money that is not committed to grant or loan awards made by the council as follows:

(1) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the tax base revitalization account in 2009, 2010, and 2011, pursuant to Minnesota Statutes, section 473.252;

(2) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the metropolitan livable communities demonstration account in 2009, 2010, and 2011 pursuant to Minnesota Statutes, section 473.253; and

(3) balances in the metropolitan livable communities fund accounts in 2009, 2010, and 2011.

The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449. If the council transfers funds pursuant to this section, the council shall amend the annual distribution plan described in Minnesota Statutes, section 473.25, paragraph (d), and include information about the transfer in the annual report required under Minnesota Statutes, section 473.25, paragraph (e).

Sec. 11. **RIGHT-OF-WAY ACQUISITION LOAN FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, section 473.167, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 up to 75 percent of the amounts levied and collected in 2009, 2010, and 2011 under Minnesota Statutes, section 473.167, subdivision 3. The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449.

ARTICLE 2

TRUNK HIGHWAY BONDS

Section 1. **HIGHWAY APPROPRIATION AND BOND SALE.**

Subdivision 1. **Appropriation.** \$40,000,000 is appropriated from the bond proceeds account in the trunk highway fund to the commissioner of transportation for (1) construction of interchanges involving a trunk highway, where the interchange will promote economic development, increase employment, relieve growing traffic congestion, and promote traffic safety; and (2) local match for any federal grants made available to the state. The amount under this paragraph must be allocated 50 percent to the department's metropolitan district, and 50 percent to districts in greater Minnesota. At least \$20,000,000 of this appropriation must be expended as provided under clause (1). This amount is in addition to existing appropriations for this purpose.

Subd. 2. **Bond sale.** To provide the money appropriated in subdivision 1 from the bond proceeds account in the trunk highway fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$40,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 167.50 to

167.52, and by the Minnesota Constitution, article XIV, section 11, at the times and in the amounts requested by the commissioner of transportation. The proceeds of the bonds, except accrued interest and any premium received from the sale of the bonds, must be deposited in the bond proceeds account in the trunk highway fund.

Sec. 2. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 3

TRANSPORTATION FINANCE AND POLICY

Section 1. Minnesota Statutes 2008, section 16A.152, subdivision 2, is amended to read:

Subd. 2. **Additional revenues; priority.** (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the following accounts and purposes in priority order:

(1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000;

(2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;

(3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve; ~~and~~

(4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (b), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount; and

(5) to the state airports fund, the amount necessary to restore the amount transferred from the state airports fund under Laws 2008, chapter 363, article 11, section 3, subdivision 5.

(b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before section 16A.1522 takes effect.

(d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

Sec. 2. **[160.165] MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.**

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

(1) "project" means construction work to maintain, construct, reconstruct, or improve a street or highway;

(2) "substantial business impacts" means impairment of road access, parking, or visibility for one or more business establishments as a result of a project, for a minimum period of one month; and

(3) "transportation authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; and statutory or home rule charter cities, as to city streets.

Subd. 2. **Business liaison.** (a) Before beginning construction work on a project, a transportation authority shall identify whether the project is anticipated to include substantial business impacts. For such projects, the transportation authority shall designate an individual to serve as business liaison between the transportation authority and affected businesses.

(b) The business liaison shall consult with affected businesses before and during construction to investigate means of mitigating project impacts to businesses. The mitigation considered must include signage. The business liaison shall provide information to the identified businesses before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Sec. 3. Minnesota Statutes 2008, section 161.20, subdivision 3, is amended to read:

Subd. 3. **Trunk highway fund appropriations.** The commissioner may expend trunk highway funds only for trunk highway purposes. Payment of expenses related to Bureau of Criminal Apprehension laboratory, Explore Minnesota Tourism kiosks, Minnesota Safety Council, tort claims, driver education programs, Emergency Medical Services Board, and Mississippi River Parkway Commission, and personnel costs incurred on behalf of the Governor's Office do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system.

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

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

Sec. 5. **[165.15] STILLWATER LIFT BRIDGE ENDOWMENT ACCOUNT.**

Subdivision 1. **Account established.** The Stillwater lift bridge endowment account is established in the state treasury. The account may consist of appropriations made by the state of Minnesota or Wisconsin and may include federal funds. The account may also receive private contributions, gifts, or grants under section 16A.013. Any interest or profit accruing from investment of these sums is credited to the account.

Subd. 2. **Use of funds.** (a) Income derived from the investment of principal in the account may be used by the commissioner of transportation for operations and routine maintenance of the Stillwater lift bridge. No money from this account may be used for any purposes except those described in this section, and no money from this account may be transferred to any other account in the state treasury without specific legislative authorization. Any money transferred from the trunk highway fund may only be used for trunk highway purposes. For the purposes of this section:

(1) "Income" is the amount of interest on debt securities and dividends on equity securities. Any gains or losses from the sale of securities must be added to the principal of the account.

(2) "Routine maintenance" means activities that are predictable and repetitive, but not activities that would constitute major repairs or rehabilitation.

(b) Investment management fees incurred by the State Board of Investment are eligible expenses for reimbursement from the account.

(c) The commissioner of transportation has authority to approve or deny expenditures of funds in the account.

Subd. 3. **Appropriation.** Income derived from the investment of principal in the account is appropriated annually to the commissioner of transportation for the purposes described in this section.

Subd. 4. **Financial compliance.** The commissioner of transportation shall ensure that the account complies with the regulations in OMB circulars A87, Cost Principles for State, Local and Indian Tribal Governments, and A122, Cost Principles for Non-Profit Organizations, of the United States Office of Management and Budget (OMB).

Subd. 5. **Investment.** The State Board of Investment, in consultation with the commissioner of transportation, shall invest money in the account under section 11A.24.

Subd. 6. **Demolition.** If the commissioner determines, in consultation with the State Historic Preservation Office, that it is necessary to demolish the Stillwater lift bridge, the principal in the account may be spent to pay for demolition of the bridge, and is appropriated to the commissioner of transportation only for that purpose, except that only funds originally contributed by the state or federal government can be used to pay for demolition. Any money remaining in the account after demolition must be used to pay for the preservation of other historic bridges in consultation with the State Historic Preservation Office.

Subd. 7. **Audits.** The account is subject to audit by the legislative auditor.

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

Sec. 6. Minnesota Statutes 2008, section 168.017, subdivision 5, is amended to read:

Subd. 5. Registration period extension for leased vehicle. (a) Notwithstanding subdivisions 3 and 4, a person leasing for at least one year a vehicle registered under this section may obtain an extension of the motor vehicle's registration period for the unexpired portion of the lease period, for a period not to exceed 11 months beyond the expiration of the registration period.

(b) In order to obtain an extension under this subdivision a lessee must

(1) apply to the registrar on a form the registrar prescribes;

(2) submit to the registrar a copy of the lease;

(3) pay an administrative fee of \$5; and

(4) pay a tax of 1/12 of the tax for the registration period being extended for each month of the extension.

(c) On an applicant's compliance with paragraph (b) the registrar shall issue the applicant a license plate tab or sticker designating the new month of expiration of the registration. The extended registration expires on the tenth day of the month following the month designated on the tab or sticker.

(d) All fees collected under paragraph (b), clause (3), must be deposited in the vehicle services operating account under section 299A.705, subdivision 1. Taxes collected under paragraph (b), clause (4), must be deposited in the highway user tax distribution fund.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 7. Minnesota Statutes 2008, section 168.021, subdivision 4, is amended to read:

Subd. 4. **Fees; disposition.** All fees collected from the sale of disability plates under this section must be deposited in the state treasury to the credit of the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 8. Minnesota Statutes 2008, section 168.10, subdivision 1i, is amended to read:

Subd. 1i. **Collector plate transfer.** Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of \$5, plates issued under this section may be transferred to another vehicle owned or jointly owned by the person to whom the special plates were issued or the plate may be assigned to another owner. In addition to the transfer fee a new owner must pay the \$25 tax and any fee required by section 168.12, subdivision 2a. The \$5 fee must be paid into the state treasury and credited to the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1. License plates issued under this section may not be transferred to a vehicle not eligible for the collector's vehicle license plates.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 9. Minnesota Statutes 2008, section 168.29, is amended to read:

168.29 REPLACEMENT PLATES.

(a) In the event of the defacement, loss or destruction of any number plates or validation stickers, the registrar, upon receiving and filing a sworn statement of the vehicle owner, setting forth the circumstances of the defacement, loss, destruction or theft of the number plates or validation stickers, together with any defaced plates or stickers and the payment of a fee calculated to cover the cost of replacement, shall issue a new set of plates or stickers.

(b) The registrar shall then note on the registrar's records the issue of new number plates and shall proceed in such manner as the registrar may deem advisable to cancel and call in the original plates so as to insure against their use on another motor vehicle.

(c) Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a \$1 fee. Fees collected under this section must be paid into the state treasury and credited to the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 10. Minnesota Statutes 2008, section 168.62, subdivision 3, is amended to read:

Subd. 3. **Special plates or certificate; fee; proceeds to highway user fund.** At the same time that an owner or operator of intercity buses registers them in Minnesota and obtains number plates therefor, the owner or operator shall apply for special identification plates or certificates for the remainder of that fleet of intercity buses. The registrar of motor vehicles shall design an appropriate plate or identification certificate for this purpose which shall be issued upon the payment of a fee of \$10 covering each intercity bus so identified. The proceeds of such fees shall be deposited to the credit of the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1. No intercity bus shall at any time be operated in the state of Minnesota without either Minnesota number plates or special identification plates or certificates issued as herein provided.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 11. **[171.163] COMMERCIAL DRIVER'S LICENSE RECORD KEEPING.**

An agency, court, or public official in Minnesota shall not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a conviction for a violation of a state or local traffic control law, except a parking violation, from appearing on the driving record of a holder of a commercial driver's license, when the violation is committed in any type of motor vehicle, or on the driving record of an individual who committed the violation in a commercial motor vehicle.

Sec. 12. Minnesota Statutes 2008, section 174.24, subdivision 1a, is amended to read:

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

Sec. 13. Minnesota Statutes 2008, section 174.24, subdivision 5, is amended to read:

Subd. 5. **Method of payment, operating assistance.** Payments for operating assistance under this section must be made in the following manner:

(a) For payments made from the general fund:

- (1) 50 percent of the total contract amount in or before the first month of operation;
- (2) 40 percent of the total contract amount in or before the seventh month of operation;
- (3) 9 percent of the total contract amount in or before the 12th month of operation; and
- (4) 1 percent of the total contract amount after the final audit.

(b) For payments made from the greater Minnesota transit account:

(1) 50 percent of the total contract amount in or before the seventh month of operation; and

(2) 50 percent of the total contract amount in or before the 11th month of operation.

Sec. 14. Minnesota Statutes 2008, section 174.24, is amended by adding a subdivision to read:

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

Sec. 15. Minnesota Statutes 2008, section 174.50, is amended by adding a subdivision to read:

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

(1) that is no longer classified as fracture critical, by having alternate load paths; and

(2) whose failure of a main component will not result in the collapse of the bridge.

(b) A grant under this subdivision is subject to the procedures and criteria established under subdivisions 5 and 6.

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

Sec. 16. **[174.632] PASSENGER RAIL; COMMISSIONER'S DUTIES.**

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

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

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

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

Sec. 17. **[174.634] PASSENGER RAIL; FUNDING.**

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

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

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

Sec. 18. **[174.636] PASSENGER RAIL; EXERCISE OF POWER.**

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

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

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

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

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

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

Sec. 19. Minnesota Statutes 2008, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. **Deposit of revenues.** (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) From July 1, 2007, through June 30, 2008, 38.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 24 percent must be deposited in the metropolitan area transit account under section 16A.88, and 1.5 percent must be deposited in the greater Minnesota transit account under section 16A.88. The remaining money must be deposited in the general fund.

(c) From July 1, 2008, through June 30, 2009, 44.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 27.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 1.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.

~~(d) From July 1, 2009, through June 30, 2010, 50.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(d) From July 1, 2009, through June 30, 2010, 47.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 16.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,000,000 must be deposited in the highway user tax distribution fund; and

(2) 1.25 percent in the greater Minnesota transit account, except that any amount in excess of \$5,000,000 must be deposited in the highway user tax distribution fund.

~~(c) From July 1, 2010, through June 30, 2011, 56.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(e) From July 1, 2010, through June 30, 2011, 54.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 6.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,750,000 must be deposited in the highway user tax distribution fund; and

(2) 0.25 percent in the greater Minnesota transit account, except that any amount in excess of \$1,250,000 must be deposited in the highway user tax distribution fund.

(f) On and after July 1, 2011, 60 percent of the money collected and received must be deposited in the highway user tax distribution fund, 36 percent must be deposited in the metropolitan area transit account under section 16A.88, and four percent must be deposited in the greater Minnesota transit account under section 16A.88.

(g) It is the intent of the legislature that the allocations under paragraph (f) remain unchanged for fiscal year 2012 and all subsequent fiscal years.

Sec. 20. Minnesota Statutes 2008, section 473.408, is amended by adding a subdivision to read:

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

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

Sec. 21. Laws 2008, chapter 152, article 1, section 3, subdivision 2, is amended to read:

Subd. 2. **Multimodal Systems**

(a) Transit	0	1,700,000
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This appropriation is from the general fund. This is a onetime appropriation.

(b) Rail	0	250,000
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This appropriation is from the general fund for a grant to the Northstar Corridor Development Authority to fund advanced preliminary engineering, updated environmental documentation, property appraisals, park-and-ride lot construction, and negotiations with the railroad to extend commuter rail service on the Burlington Northern Santa Fe rail line between Big Lake and Rice. This is a onetime appropriation and is available until spent.

(c) Port Development Assistance

0

500,000

This appropriation is from the general fund for grants under Minnesota Statutes, chapter 457A. Any improvements made with the proceeds of these grants must be publicly owned. This is a onetime appropriation.

Sec. 22. LAND USE AND PLANNING RESOURCES REPORT.

(a) By January 15, 2011, the Metropolitan Council shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance. The report must identify and assess the effectiveness of local level and regional level land use and transportation planning strategies and processes for:

(1) reducing air pollution;

(2) mitigating congestion; and

(3) reducing costs for operation, maintenance, or improvement of infrastructure.

(b) The report must emphasize approaches that reduce or manage travel demand through land use and access to transportation options.

(c) The Metropolitan Council shall (1) identify and adapt existing information and resources that are found to be applicable to Minnesota, taking into account travel and demographic trends specific to the Twin Cities metropolitan area; and (2) collaborate with local units of government and other stakeholders interested in development and refinement of the resources.

(d) The Metropolitan Council shall submit progress reports on development and application of the land use and planning resources report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance by October 15, 2009; April 15, 2010; and October 15, 2010.

(e) The Metropolitan Council may enter into a contract for up to \$375,000 with the Board of Regents of the University of Minnesota for the Center for Transportation Studies to assist in creation of the report required under this section.

Sec. 23. PASSENGER RAIL REPORT.

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

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

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

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

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

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

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

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

Sec. 24. **BUS PURCHASES.**

The Metropolitan Council, in preparing bid specifications for bus purchases, shall ensure that the specifications conform, to the greatest extent practicable, with products that are manufactured in this state.

Sec. 25. **ST. CLOUD BRIDGE SITE.**

The commissioner of transportation shall ensure that the economic impact on existing area communities is evaluated and considered in analyzing potential alternative sites and selecting potential and preferred sites for a Mississippi River crossing near St. Cloud metropolitan area.

Sec. 26. **CONVEYANCE OF LAND AND BUILDINGS.**

Notwithstanding Minnesota Statutes, section 16A.695, subdivision 3, or any other law to the contrary, the Metropolitan Council shall convey the Apple Valley Transit Station and the real property on which it is situated, located in Dakota County, to the Minnesota Valley Transit Authority for nominal consideration, in order to carry out the governmental program and public purpose for which the Apple Valley Transit Station was constructed. Any subsequent conveyance of this property by the Minnesota Valley Transit Authority is subject to Minnesota Statutes, section 16A.695, subdivision 3.

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

Sec. 27. **DISCOUNT TRANSIT PASSES PILOT PROGRAM.**

(a) The Metropolitan Council shall establish a pilot program and policies to sell transit fare media at a 50 percent discount to eligible charitable organizations for use by homeless individuals. For the purposes of this section, "eligible charitable organization" means a charitable organization described in section 501(c)(3) of the Internal Revenue Code that provides services for homeless individuals, and "homeless individuals" means homeless individuals or persons as defined in Minnesota Statutes, section 116L.361, subdivision 5. The pilot program must include: (1) an organization located in Minneapolis that provides a homeless shelter, a homeless street outreach program, and sober housing to American Indian women recovering from chemical dependency; and (2) an organization located in Minneapolis that provides transitional apartments for homeless families as well as walk-in services for single adults, including meals and a food shelf. The pilot program shall terminate March 15, 2011.

(b) By January 15, 2011, the chair of the Metropolitan Council shall prepare and submit a report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over transportation. The chair shall prepare and submit the report with existing agency staff and resources. The report must be made electronically and available in print only upon request. The report on the pilot program must include a list of sales made under this subdivision, including organization name and the volume of fare media purchased, and costs of providing the discounted service and revenue impacts in the council's transit system. The report must be prepared in consultation with representatives from the charitable organizations participating in the pilot program.

(c) Paragraphs (a) and (b) apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

EFFECTIVE DATE. This section is effective September 1, 2009.

Sec. 28. **DESIGN-BUILD PROJECT SELECTION COUNCIL.**

Subdivision 1. Establishment of council. A Design-Build Project Selection Council is established to select, evaluate, and support county and municipal transportation projects on the state-aid system that are conducive to use of the design-build method of contracting and to report to the legislature.

Subd. 2. Duties of council. In order to accomplish these purposes, the council shall:

(1) review applications for participation received by the commissioner from counties and cities;

(2) select for participation in the pilot program a maximum of 15 projects on the state-aid system, no more than ten of which may be on the county state-aid highway system, and no more than ten of which may be on the municipal state-aid street system;

(3) determine that the use of design-build in the selected projects would serve the public interest, after considering, at a minimum:

(i) the extent to which the municipality can adequately define the project requirements in a proposed scope of the design and construction desired;

(ii) the time constraints for delivery of the project;

(iii) the capability of potential contractors with the design-build method of project delivery;

(iv) the suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors;

(v) the capability of the municipality to manage the project, including the employment of experienced personnel or outside consultants; and

(vi) the original character of the product or the services;

(4) periodically review and evaluate the use of design-build in the selected projects; and

(5) assist the commissioner in preparing a report to the legislature at the conclusion of the pilot program.

Subd. 3. Membership. (a) The council is composed of the following members:

(1) two contractors, at least one of whom represents a small contracting firm, selected by the Associated General Contractors, Minnesota chapter;

(2) two project designers selected by the American Council of Engineering Companies, Minnesota chapter;

(3) one representative of a metropolitan area county selected by the Association of Minnesota Counties;

(4) one representative of a greater Minnesota county selected by the Association of Minnesota Counties;

(5) one representative of a metropolitan area city selected by the League of Minnesota Cities;

(6) one representative of a greater Minnesota city selected by the League of Minnesota Cities; and

(7) the commissioner of transportation or a designee from the Minnesota Department of Transportation Division of State Aid for Local Transportation.

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

(c) The commissioner or the commissioner's designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council and shall serve as chair of the council.

Subd. 4. **Report to legislature.** Annually, by January 15, the council shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation budget and policy, and to the legislature as provided under Minnesota Statutes, section 15.059. The report must summarize the design-build pilot program selection process, including the number of applications considered; the proposal process for each project that was selected; the contracting process for each project that was completed; and project costs. The report must evaluate the process and results applying the performance-based measures with which the commissioner evaluates trunk highway design-build projects. The report must include any recommendations for future legislation.

EFFECTIVE DATE. This section is effective the day following final enactment and expires on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first.

Sec. 29. **DESIGN-BUILD CONTRACTING PILOT PROGRAM.**

Subdivision 1. **Definitions.** The following terms have the meanings given:

(1) "commissioner" means the commissioner of transportation;

(2) "municipality" means a county or statutory or home rule charter city;

(3) "design-build contract" means a single contract between a municipality and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for the transportation project;

(4) "design-build firm" means a proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation, or any legal entity;

(5) "design professional" means a person who holds a license under Minnesota Statutes, chapter 326B, that is required to be registered under Minnesota law;

(6) "design-build transportation project" means the procurement of both the design and construction of a transportation project in a single contract with a company or companies capable of providing the necessary engineering services and construction;

(7) "design-builder" means the design-build firm that proposes to design and build a transportation project governed by the procedures of this section;

(8) "request for proposals" or "RFP" means the document by which the municipality solicits proposals from qualified design-build firms to design and construct the transportation project;

(9) "request for qualifications" or "RFQ" means a document to qualify potential design-build firms; and

(10) "responsive proposal" means a technical proposal of which no major component (i) contradicts the goals of the project, (ii) materially violates an RFP requirement so as to give the proposer a competitive advantage, or (iii) places conditions on a proposal inconsistent with the requirements of the RFP.

Subd. 2. **Establishment of pilot program.** (a) The commissioner of transportation shall conduct a design-build contracting pilot program to select local transportation projects for participation in the program, to conduct information sessions for engineers and contractors, to support and evaluate the use of the design-build method of contracting by counties and statutory and home rule charter cities in constructing, improving, and maintaining streets and highways on the state-aid system, and to report to the legislature.

(b) The selection of design-build projects under the pilot program must be as made by the Design-Build Project Selection Council established in section 28.

Subd. 3. **Licensing requirements.** (a) Each design-builder shall employ, or have as a partner, member, officer, coventurer, or subcontractor, a person duly licensed and registered to provide the design services required to complete the project and do business in the state, including the provision of sureties of sufficient amount to protect the interests of the awarding municipality.

(b) A design-builder may enter into a contract to provide professional or construction services for a project that the design-builder is not licensed, registered, or qualified to perform, so long as the design-builder provides those services through subcontractors with duly licensed, registered, or otherwise qualified individuals in accordance with Minnesota Statutes, sections 161.3410 to 161.3428.

(c) Nothing in this section authorizing design-build contracts is intended to limit or eliminate the responsibility or liability owed by a professional on a design-build project to the state, municipality, or other third party under existing law.

(d) The design service portion of a design-build contract must be considered a service and not a product.

Subd. 4. **Information session for municipal engineer.** After a project is selected for participation in the design-build contracting pilot program, the commissioner or the commissioner's designee with design-build experience shall conduct an information session for the municipality's engineer for each selected project, in which issues unique to design-build must be discussed, including, but not limited to, writing an RFP, project oversight requirements, assessing risk, and communication with the design-build firm. After participation in the information session, the municipality's engineer is qualified to post the selected project, along with any future design-build project RFP in the pilot program.

Subd. 5. **Technical Review Committee.** During the phase one RFQ and before solicitation, the municipality shall appoint a Technical Review Committee of at least five individuals. The Technical Review Committee must include an individual whose name and qualifications are submitted to the municipality by the Minnesota chapter of the Associated General Contractors, after consultation with other commercial contractor associations in the state. Members of the Technical Review Committee who are not state employees are subject to the Minnesota Government Data Practices Act and Minnesota Statutes, section 16C.06, to the same extent that state agencies are subject to those provisions. A Technical Review Committee member may not participate in the review or discussion of responses to the RFQ or RFP when a design-build firm in which the member has a financial interest has responded to the RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm. The members of the Technical Review Committee must be treated as municipal employees in the event of litigation resulting from any action arising out of their service on the committee.

Subd. 6. **Phase one; design-build RFQ.** The municipality shall prepare an RFQ, which must include the following:

(1) the minimum qualifications of design-builders necessary to meet the requirements for acceptance;

- (2) a scope of work statement and schedule;
- (3) documents defining the project requirements;
- (4) the form of contract to be awarded;
- (5) the weighted selection criteria for compiling a short list and the number of firms to be included in the short list, which must be at least two but not more than five;
- (6) a description of the request for proposals (RFP) requirements;
- (7) the maximum time allowed for design and construction;
- (8) the municipality's estimated cost of design and construction;
- (9) requirements for construction experience, design experience, financial, personnel, and equipment resources available from potential design-builders for the project and experience in other design-build transportation projects or similar projects, provided that these requirements may not unduly restrict competition; and
- (10) a statement that "past performance" or "experience" or other criteria used in the RFQ evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 7. **Information session for prospective design-build firms.** After a design-build project is advertised, any prospective design-build firm shall attend a design-build information session conducted by the commissioner or the commissioner's designee with design-build experience. The information must include information about design-build contracts, including, but not limited to, communication with partner firms, project oversight requirements, assessing risk, and communication with the municipality's engineer. After participation in the information session, the design-build firm is eligible to bid on the design-build project and any future design-build pilot program projects.

Subd. 8. **Evaluation.** The selection team shall evaluate the design-build qualifications of responding firms and shall compile a short list of no more than five most highly qualified firms in accordance with qualifications criteria described in the RFQ. If only one design-build firm responds to the RFQ or remains on the short list, the municipality may readvertise or cancel the project as the municipality deems necessary.

Subd. 9. **Phase two; design-build RFP.** The municipality shall prepare an RFP, which must include:

- (1) the scope of work, including (i) performance and technical requirements, (ii) conceptual design, (iii) specifications consistent with state standards and specifications, and (iv) functional and operational elements for the delivery of the completed project, all of which must be prepared by a registered or licensed professional engineer;
- (2) copies of the contract documents that the successful proposer will be expected to sign;
- (3) the maximum time allowable for design and construction;
- (4) the road authority's estimated cost of design and construction;
- (5) the requirement that a submitted proposal be segmented into two parts, a technical proposal and a price proposal;

(6) the requirement that each proposal be in a separately sealed, clearly identified package and include the date and time of the submittal deadline;

(7) the requirement that the technical proposal include a critical path method, bar schedule of the work to be performed, or similar schematic; preliminary design plans and specifications; technical reports; calculations; permit requirements; applicable development fees; and other data requested in the RFP;

(8) the requirement that the price proposal contain all design, construction, engineering, inspection, and construction costs of the proposed project;

(9) the requirement that surety be submitted equal to the total amount of the proposal;

(10) a description of the qualifications required of the design-builder and the selection criteria, including the weight of each criterion and subcriterion;

(11) the date, time, and location of the public opening of the sealed price proposals;

(12) the amount of, and eligibility for, a stipulated fee;

(13) other information relevant to the project; and

(14) a statement that "past performance," "experience," or other criteria used in the RFP evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 10. **Design-build award; computation; announcement.** A design-build contract shall be awarded as follows:

(a) The Technical Review Committee shall score the technical proposals of the proposers selected under subdivision 8 using the selection criteria in the RFP. The Technical Review Committee shall then submit a technical proposal score for each design-builder to the municipality. The Technical Review Committee shall reject any nonresponsive proposal, including those unable to provide sufficient surety to guarantee project completion. The municipality shall review the technical proposal scores.

(b) The commissioner or the commissioner's designee shall review the technical proposal scores. The commissioner shall submit the final technical proposal scores to the municipality.

(c) The municipality shall announce the technical proposal score for each design-builder and shall publicly open the sealed price proposals and shall divide each design-builder's price by the technical score that the commissioner has given to it to obtain an adjusted score. The design-builder selected must be that responsive and responsible design-builder whose adjusted score is the lowest.

(d) If a time factor is included with the selection criteria in the RFP package, the municipality may use a value of the time factor established by the municipality as a criterion in the RFP.

(e) Unless all proposals are rejected, the municipality shall award the contract to the responsive and responsible design-builder with the lowest adjusted score. The municipality shall reserve the right to reject all proposals.

(f) The municipality shall award a stipulated fee not less than two-tenths of one percent of the municipality's estimated cost of design and construction to each short-listed, responsible proposer who provides a responsive but unsuccessful proposal. If the municipality does not award a contract, all short-listed proposers must receive the stipulated fee. If the municipality cancels the contract before reviewing the technical proposals, the municipality

shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the municipality's estimated cost of design and construction. The municipality shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the municipality may use any ideas or information contained in the proposals in connection with any contract awarded for the project or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the municipality may not use ideas and information contained in that proposer's proposal. Upon the request of the municipality, a proposer who waived a stipulated fee may withdraw the waiver, in which case the municipality shall pay the stipulated fee to the proposer and thereafter may use ideas and information in the proposer's proposal.

(g) The municipality shall not limit the ability of design-builders that have submitted proposals to protest a contemplated or actual award by the commissioner by, among other things, unreasonably restricting the time to protest; restricting the right to seek judicial review of the commissioner's actions; attempting to change the judicial standard of review; or requiring the protestor to pay attorney fees for an unsuccessful, nonfrivolous protest. Unless all design-builders that have submitted proposals agree to execution of a contract for the project without a waiting period beforehand, the municipality shall wait at least seven days after both the award of the project and public disclosure of the Technical Review Committee's scoring data and the successful proposal before executing a contract for the project.

Subd. 11. **Low-bid design-build process.** (a) The municipality may also use low-bid, design-build procedures to award a design-build contract where the scope of the work can be clearly defined.

(b) Low-bid design-build projects may require an RFQ and short-listing, and must require an RFP.

(c) Submitted proposals under this subdivision must include separately a technical proposal and a price proposal. The low-bid, design-build procedures must follow a two-step process for review of the responses to the RFP as follows:

(1) the first step is the review of the technical proposal by the Technical Review Committee as provided in subdivision 5. The Technical Review Committee must open the technical proposal first and must determine if it complies with the requirements of the RFP and is responsive. The Technical Review Committee may not perform any ranking or scoring of the technical proposals; and

(2) the second step is the determination of the low bidder based on the price proposal. The municipality may not open the price proposal until the review of the technical proposal is complete.

(d) The contract award under low-bid, design-build procedures must be made to the proposer whose sealed bid is responsive to the technical requirements as determined by the Technical Review Committee and that is also the lowest bid.

(e) A stipulated fee may be paid for unsuccessful bids on low-bid, design-build projects only when the municipality has required an RFQ and short-listed the most highly qualified responsive bidders.

EFFECTIVE DATE. This section is effective the day following final enactment and expires on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first."

Delete the title and insert:

"A bill for an act relating to transportation; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers, contingent appropriations, and tort claims; modifying previous appropriations; authorizing sale of trunk highway bonds; modifying various provisions related to transportation finance and policy; providing for and modifying disposition of various fees, revenues, and accounts; clarifying appropriate uses of trunk highway fund; providing for mitigation of transportation construction impacts on business; increasing set-aside from municipal state-aid fund for administrative costs; establishing Stillwater lift bridge endowment account; regulating records of commercial drivers; modifying provisions related to transit services, fracture-critical bridges, passenger rail, and motor vehicle sales tax revenue allocations; establishing discount transit passes pilot program; authorizing Metropolitan Council to convey certain real property including the Apple Valley Transit Station; establishing Design-Build Project Selection Council and pilot program; adding provisions relating to bus purchases and a Mississippi River crossing near St. Cloud; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2; 161.20, subdivision 3; 162.12, subdivision 2; 168.017, subdivision 5; 168.021, subdivision 4; 168.10, subdivision 1i; 168.29; 168.62, subdivision 3; 174.24, subdivisions 1a, 5, by adding a subdivision; 174.50, by adding a subdivision; 297B.09, subdivision 1; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, sections 3, subdivision 2; 5; proposing coding for new law in Minnesota Statutes, chapters 160; 165; 171; 174."

We request the adoption of this report and repassage of the bill.

House Conferees: BERNARD LIEDER, FRANK HORNSTEIN, TERRY MORROW, MELISSA HORTMAN and MICHAEL BEARD.

Senate Conferees: STEVE MURPHY, JIM CARLSON, MICHAEL JUNGBAUER and RICK OLSEEN.

Lieder moved that the report of the Conference Committee on H. F. No. 1309 be adopted and that the bill be repassed as amended by the Conference Committee.

The Speaker called Juhnke to the chair.

CALL OF THE HOUSE

On the motion of Seifert and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, B.	Buesgens	Dittrich	Gottwalt	Hornstein	Kiffmeyer
Anderson, P.	Bunn	Doepke	Greiling	Hortman	Knuth
Anderson, S.	Carlson	Doty	Gunther	Hosch	Koenen
Anzelc	Champion	Drazkowski	Hackbarth	Howes	Kohls
Atkins	Clark	Eastlund	Hamilton	Huntley	Laine
Beard	Cornish	Eken	Hansen	Jackson	Lanning
Benson	Davids	Emmer	Haws	Johnson	Lesch
Bigham	Davnie	Falk	Hayden	Juhnke	Liebling
Bly	Dean	Faust	Hilstrom	Kahn	Lieder
Brod	Demmer	Fritz	Hilty	Kalin	Lillie
Brown	Dettmer	Gardner	Holberg	Kath	Loeffler
Brynaert	Dill	Garofalo	Hoppe	Kelly	Loon

Magnus	Murphy, E.	Pelowski	Sailer	Slocum	Urdahl
Mahoney	Murphy, M.	Peppin	Sanders	Smith	Wagenius
Marquart	Nelson	Persell	Scalze	Solberg	Ward
Masin	Newton	Peterson	Scott	Sterner	Welti
McFarlane	Nornes	Poppe	Seifert	Swails	Winkler
McNamara	Obermueller	Reinert	Sertich	Thao	Zellers
Morgan	Olin	Rosenthal	Severson	Thissen	Spk. Kelliher
Morrow	Otremba	Rukavina	Shimanski	Tillberry	
Murdock	Paymar	Ruud	Slawik	Torkelson	

Sertich moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question recurred on the Lieder motion that the report of the Conference Committee on H. F. No. 1309 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1309, A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; modifying previous appropriations provisions; modifying various provisions related to transportation finance and policy; modifying provisions related to speed limits, fracture-critical bridges, transit, passenger rail, motor vehicle lease sales tax revenue allocations, transit services, and the Buffalo Ridge Regional Rail Authority; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2; 161.081, by adding a subdivision; 161.36, subdivision 7, as added; 162.12, subdivision 2; 169.14, by adding a subdivision; 174.24, subdivision 1a, by adding a subdivision; 174.50, by adding a subdivision; 297A.815, subdivision 3; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, section 5; proposing coding for new law in Minnesota Statutes, chapters 161; 174.

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

The question was taken on the repassage of the bill and the roll was called. There were 103 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Abeler	Clark	Gardner	Jackson	Lillie	Murphy, M.
Anderson, P.	Cornish	Greiling	Johnson	Loeffler	Nelson
Anzelc	Davnie	Hamilton	Juhnke	Loon	Newton
Atkins	Dean	Hansen	Kahn	Magnus	Norton
Beard	Demmer	Hausman	Kalin	Mahoney	Obermueller
Benson	Dill	Haws	Kath	Mariani	Olin
Bigham	Dittrich	Hayden	Knuth	Marquart	Otremba
Bly	Doepke	Hilstrom	Koenen	Masin	Paymar
Brod	Doty	Hilty	Laine	McFarlane	Pelowski
Brown	Downey	Hornstein	Lanning	McNamara	Persell
Brynaert	Eken	Hortman	Lenczewski	Morgan	Peterson
Bunn	Falk	Hosch	Lesch	Morrow	Poppe
Carlson	Faust	Howes	Liebling	Mullery	Reinert
Champion	Fritz	Huntley	Lieder	Murphy, E.	Rosenthal

Rukavina	Sertich	Solberg	Thissen	Ward
Ruud	Simon	Stern	Tillberry	Walti
Sailer	Slawik	Swails	Urdahl	Spk. Kelliher
Scalze	Slocum	Thao	Wagenius	

Those who voted in the negative were:

Anderson, B.	Drazkowski	Gunther	Kiffmeyer	Sanders	Smith
Anderson, S.	Eastlund	Hackbarth	Kohls	Scott	Torkelson
Buesgens	Emmer	Holberg	Murdock	Seifert	Westrom
Davids	Garofalo	Hoppe	Nornes	Severson	Winkler
Dettmer	Gottwalt	Kelly	Peppin	Shimanski	Zellers

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

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

CALL OF THE HOUSE LIFTED

Sertich moved that the call of the House be lifted. The motion prevailed and it was so ordered.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1309, A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; modifying previous appropriations provisions; modifying various provisions related to transportation finance and policy; modifying provisions related to speed limits, fracture-critical bridges, transit, passenger rail, motor vehicle lease sales tax revenue allocations, transit services, and the Buffalo Ridge Regional Rail Authority; requiring reports; amending Minnesota Statutes 2008,

sections 16A.152, subdivision 2; 161.081, by adding a subdivision; 161.36, subdivision 7, as added; 162.12, subdivision 2; 169.14, by adding a subdivision; 174.24, subdivision 1a, by adding a subdivision; 174.50, by adding a subdivision; 297A.815, subdivision 3; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, section 5; proposing coding for new law in Minnesota Statutes, chapters 161; 174.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 97, 431, 492, 1302, 1447, 1887, 341, 538, 574, 863, 1476, 1494, 908, 910, 1435, 1469, 1479 and 1611.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

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

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

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

The bill was read for the first time.

Bigham moved that S. F. No. 431 and H. F. No. 388, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Sailer moved that S. F. No. 492 and H. F. No. 571, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Mullery moved that S. F. No. 1302 and H. F. No. 995, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1447, A bill for an act relating to human services; making changes to licensing provisions, including data practices, disqualifications, and background study requirements; providing alternate supervision technology for adult foster care licensing; amending Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20; 147C.25; 147C.30; 147C.35; 147C.40; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07, subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16, subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045, subdivisions 3, 3b; 299C.61, subdivision 6; 299C.62, subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

The bill was read for the first time.

Abeler moved that S. F. No. 1447 and H. F. No. 1750, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Mullery moved that S. F. No. 1887 and H. F. No. 1448, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Murphy, E., moved that S. F. No. 341 and H. F. No. 454, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight.

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

The bill was read for the first time.

Jackson moved that S. F. No. 574 and H. F. No. 1038, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Mullery moved that S. F. No. 863 and H. F. No. 1083, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Nelson moved that S. F. No. 1476 and H. F. No. 1678, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Abeler moved that S. F. No. 1494 and H. F. No. 1713, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Lieder moved that S. F. No. 908 and H. F. No. 980, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time.

Johnson moved that S. F. No. 910 and H. F. No. 813, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

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

The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight.

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

The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight.

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

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

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

The bill was read for the first time.

Fritz moved that S. F. No. 1611 and H. F. No. 1789, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

The following Conference Committee report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2123

A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

May 4, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2123 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 2123 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ENVIRONMENT AND NATURAL RESOURCES FINANCE

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$112,820,000</u>	<u>\$111,945,000</u>	<u>\$224,765,000</u>
<u>State Government Special Revenue</u>	<u>48,000</u>	<u>48,000</u>	<u>96,000</u>
<u>Environmental</u>	<u>69,064,000</u>	<u>69,188,000</u>	<u>138,252,000</u>
<u>Natural Resources</u>	<u>82,010,000</u>	<u>80,910,000</u>	<u>162,920,000</u>
<u>Game and Fish</u>	<u>94,312,000</u>	<u>93,912,000</u>	<u>188,224,000</u>
<u>Remediation</u>	<u>11,186,000</u>	<u>11,186,000</u>	<u>22,372,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>	<u>400,000</u>
<u>Total</u>	<u>\$369,640,000</u>	<u>\$367,389,000</u>	<u>\$737,029,000</u>

Sec. 2. **ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS.**

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

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

Sec. 3. **POLLUTION CONTROL AGENCY**

Subdivision 1. <u>Total Appropriation</u>	<u>\$90,969,000</u>	<u>\$90,493,000</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>10,771,000</u>	<u>10,171,000</u>

<u>State Government</u>		
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>
<u>Environmental</u>	<u>69,064,000</u>	<u>69,188,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

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

The commissioner shall require the chief financial officer or other financial staff to display the agency's budget on the agency's Web site in a manner that will allow citizens to understand more easily the value they are getting for their money. The agency must have an air permit and regulatory account, water permit and regulatory account, and solid waste permit and regulatory account to track revenues and expenses.

By October 1, 2010 and 2011, the commissioner shall submit a report to the chairs of the legislative committees with primary jurisdiction over the environment and natural resources policy and finance that includes the number of environmental assessment worksheets completed in the previous fiscal year, the total number of staff hours spent on those environmental assessment worksheets, and the average and median number of hours spent per completed environmental assessment worksheet.

Fee rules adopted by the agency during fiscal year 2010 are effective retroactively on July 1, 2009.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the agency by June 30 each year. A recipient without an active Web site shall report to the agency by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The commissioner shall display the information received by recipients under this paragraph on the agency's Web site.

<u>Subd. 2. Water</u>		<u>33,867,000</u>	<u>33,267,000</u>
	<u>Appropriations by Fund</u>		
<u>General</u>	<u>8,148,000</u>	<u>7,548,000</u>	
<u>State Government</u>			
<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>	
<u>Environmental</u>	<u>25,671,000</u>	<u>25,671,000</u>	

\$2,348,000 the first year and \$2,348,000 the second year are for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater according to Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Funds from this appropriation may not be used to purchase or use pesticides suspected by current science of being endocrine disruptors. To the extent possible, with money from this appropriation, a person must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination. Any balance remaining in the first year does not cancel and is available for the second year.

\$2,164,000 the first year and \$2,164,000 the second year must be distributed as grants to delegated counties to administer the county feedlot program under new Minnesota Statutes, section 116.0711, subdivisions 2 and 3. Any money remaining after the first year is available for the second year.

\$310,000 the first year and \$310,000 the second year are for community technical assistance and education, including grants and technical assistance to communities for local and basinwide water quality protection.

\$100,000 the first year is for grants to local units of government to implement cost-effective projects to control runoff, prevent erosion, and provide ditch stabilization, in order to protect water quality in lakes, rivers, and streams and to protect groundwater from degradation. This is a onetime appropriation.

\$350,000 the first year and \$350,000 the second year are for challenge grants to counties for subsurface sewage treatment system (SSTS) inventories that will determine the number of systems that are failing or that pose an imminent health threat and are located on riparian land or a lake or near wetlands or other sensitive waters. Counties must provide a nonstate match of at least 50 percent that may be in cash or in kind. The commissioner shall, by county, report: the number of systems evaluated, the number of systems determined to be failing or that pose an imminent health threat located on riparian land or a lake or near wetlands or other sensitive waters, the number replaced or soon to be replaced, and the gallons of sewage that are prevented from threatening waters. The commissioner shall develop recommendations and a plan for directly or indirectly inspecting and providing an inventory for all subsurface sewage treatment systems and submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance no later than September 15, 2010. Direct inspection methods shall include field

verification of each SSTS on riparian land or a lake or near wetlands or other sensitive waters to determine the owner, location, and which systems are failing or are an imminent health threat. Indirect inspection methods may include census-type data collection to determine the owner and location of each SSTS in the remaining portion of each county. An SSTS with a valid certificate of compliance may be considered inventoried without further work. This is a onetime appropriation.

\$375,000 the first year and \$375,000 the second year are for subsurface sewage treatment system (SSTS) administration and grants. Of this amount, \$80,000 each year is for assistance to counties through grants for SSTS program administration. Any unexpended balance in the first year does not cancel but is available in the second year.

\$740,000 the first year and \$740,000 the second year are from the environmental fund to address the need for continued increased activity in the areas of new technology review, technical assistance for local governments, and enforcement under Minnesota Statutes, sections 115.55 to 115.58, and to complete the requirements of Laws 2003, chapter 128, article 1, section 165. Of this amount, \$48,000 each year is for administration of individual septic tank fees, as provided in this article.

\$1,250,000 the first year and \$1,250,000 the second year are for assessment and monitoring of lakes, rivers, and streams.

\$100,000 the first year and \$100,000 the second year are for a grant to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North and shall enhance student understanding of the causes of flooding, flood prevention, and the impacts of flood waters on land and water resources. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative committees with jurisdiction over the environment and natural resources policy and finance and K-12 policy and finance by February 15, 2011. This is a onetime appropriation.

\$7,540,000 the first year and \$7,540,000 the second year are from the environmental fund for completion of 20 percent of the needed statewide assessments of surface water quality and trends.

\$500,000 the first year is to develop minimal impact design standards for urban storm water runoff. This is a onetime appropriation and is available until June 30, 2011. The commissioner shall report to the chairs and ranking minority members of the legislative committees and divisions having primary jurisdiction over environment and natural resources policy and finance no later than January 12, 2011, regarding the expenditure of this appropriation.

By October 1, 2009 and 2010, the commissioner shall report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the effectiveness of enforcement actions in the previous fiscal year in preventing water pollution.

The commissioner shall continue the rulemaking process to better align water permit fee revenue for fiscal years 2010, 2011, 2012, and 2013 with the cost of issuing permits, including environmental review.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts for clean water partnership, SSTS's, surface water and groundwater assessments, total maximum daily loads, stormwater, and local basinwide water quality protection in this subdivision are available until June 30, 2013.

Subd. 3. **Air**

11,871,000

12,131,000

Appropriations by Fund

Environmental

11,871,000

12,131,000

Up to \$150,000 the first year and \$150,000 the second year may be transferred from the environmental fund to the small business environmental improvement loan account established in Minnesota Statutes, section 116.993.

\$200,000 the first year and \$200,000 the second year are from the environmental fund for a monitoring program under Minnesota Statutes, section 116.454.

\$125,000 the first year and \$125,000 the second year are from the environmental fund for monitoring ambient air for hazardous pollutants in the metropolitan area.

An agency report on the level of fine particulate matter in Minnesota's air must compare measured levels with a 24-hour PM 2.5 standard of 13 to 14 micrograms per cubic meter and an annual PM 2.5 standard of 30 to 35 micrograms per cubic meter, as recommended by the Particulate Matter Review Panel of the Environmental Protection Agency's Clean Air Scientific Advisory Committee in its June 2005 report, EPA's Review of the National Ambient Air Quality Standards for Particulate Matter (Second Draft PM Staff Paper, January 2005).

\$700,000 the first year and \$700,000 the second year are from the environmental fund for an air emissions database, including monitoring greenhouse gas emissions.

The commissioner shall continue the rulemaking process to better align air quality fee revenue for fiscal years 2010, 2011, 2012, and 2013 with the cost of issuing permits, including environmental review.

Subd. 4. Land

18,467,000

18,467,000

Appropriations by Fund

<u>General</u>	<u>465,000</u>	<u>465,000</u>
<u>Environmental</u>	<u>6,916,000</u>	<u>6,916,000</u>
<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the Pollution Control Agency and agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (6), and (7). At the beginning of each fiscal year, the two commissioners shall jointly submit an annual spending plan to the commissioner of finance that maximizes the utilization of resources and appropriately allocates the money between the two departments. This appropriation is available until June 20, 2011.

\$3,616,000 the first year and \$3,616,000 the second year are from the petroleum tank fund to be transferred to the remediation fund for purposes of the leaking underground storage tank program to protect the land.

\$252,000 the first year and \$252,000 the second year are from the remediation fund to be transferred to the Department of Health for private water supply monitoring and health assessment costs in areas contaminated by unpermitted mixed municipal solid waste disposal facilities and drinking water advisories and public information activities for areas contaminated by hazardous releases.

\$500,000 each year is for environmental health tracking and biomonitoring of a representative sample of the population including indigenous people and people of color. Of this amount, \$450,000 each year is for transfer to the Department of Health.

Subd. 5. Environmental Assistance and Cross-Media

25,420,000

25,284,000

Appropriations by Fund

<u>General</u>	<u>814,000</u>	<u>814,000</u>
<u>Environmental</u>	<u>24,606,000</u>	<u>24,470,000</u>

\$14,250,000 each year is from the environmental fund for SCORE block grants to counties.

\$250,000 each year is from the environmental fund to administer the composting grant program established under new Minnesota Statutes, section 115A.559. The appropriation is added to the agency base and available until June 30, 2011.

By January 15, 2012, the commissioner shall report to the legislative committees with jurisdiction over environment and natural resources policy on:

(1) the mixed municipal solid waste diversion rates accomplished by the grant program under new Minnesota Statutes, section 115A.559;

(2) participants in the grant program and the programs developed with grant funds; and

(3) the potential for new permanent programs based on results of projects funded with grants issued under new Minnesota Statutes, section 115A.559.

\$225,000 the first year and \$89,000 the second year are from the environmental fund for duties related to harmful chemicals in products under new Minnesota Statutes, sections 116.9401 to 116.9407. Of this amount, \$133,000 the first year and \$57,000 the second year are for transfer to the Department of Health.

\$119,000 the first year and \$119,000 the second year are from the environmental fund for environmental assistance grants or loans under Minnesota Statutes, section 115A.0716. Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

All money deposited in the environmental fund for the metropolitan solid waste landfill fee in accordance with Minnesota Statutes, section 473.843, and not otherwise appropriated, is appropriated for the purposes of Minnesota Statutes, section 473.844.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as contracts or grants for surface water and groundwater assessments; environmental assistance awarded under Minnesota Statutes, section 115A.0716; technical and research assistance under Minnesota Statutes, section 115A.152; technical assistance under Minnesota Statutes, section 115A.52; and pollution prevention assistance under Minnesota Statutes, section 115D.04, are available until June 30, 2013.

Before the governor makes budget recommendations to the legislature in 2011, the commissioner must report on revenues received and expenditures made under Minnesota Statutes, section 115A.1314, subdivision 2, during fiscal years 2010 and 2011 to determine if fees collected are covering the costs of the program and request that the governor recommend a direct appropriation for the purposes of that section.

Subd. 6. Administrative Support

1,344,000

1,344,000

The commissioner shall transfer \$40,000,000 from the environmental fund to the remediation fund for the purposes of the remediation fund under Minnesota Statutes, section 116.155, subdivision 2.

Sec. 4. NATURAL RESOURCES

Subdivision 1. Total Appropriation

\$245,313,000

\$243,813,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>74,411,000</u>	<u>74,411,000</u>
<u>Natural Resources</u>	<u>76,290,000</u>	<u>75,190,000</u>
<u>Game and Fish</u>	<u>94,312,000</u>	<u>93,912,000</u>
<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

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

To the extent possible, a person conducting restoration with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the department by June 30 each year. A recipient without an active Web site shall report to the department by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The commissioner shall display the information received by recipients under this paragraph on the department's Web site.

The commissioner shall require the chief financial officer or other financial staff to display the department's budget on the department's Web site in a manner that will allow citizens to easily understand the value they are getting for their money.

Subd. 2. Land and Mineral Resources Management

10,398,000

10,398,000

Appropriations by Fund

<u>General</u>	<u>3,351,000</u>	<u>3,351,000</u>
<u>Natural Resources</u>	<u>5,461,000</u>	<u>5,461,000</u>
<u>Game and Fish</u>	<u>1,386,000</u>	<u>1,386,000</u>
<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

\$1,202,000 the first year and \$1,202,000 the second year are from the mining administration account in the natural resources fund to cover the costs associated with issuing mining permits.

\$612,000 each year is from the dedicated receipts account in the natural resources fund to cover the costs associated with issuing licenses for land and water crossings and road easements.

\$351,000 the first year and \$351,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund. \$175,500 the first year and \$175,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,696,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c), for mineral resource management, projects to enhance future mineral income, and projects to promote new mineral resource opportunities.

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

Subd. 3. Water Resources Management11,732,00011,732,000Appropriations by Fund

<u>General</u>	<u>11,452,000</u>	<u>11,452,000</u>
<u>Natural Resources</u>	<u>280,000</u>	<u>280,000</u>

By January 15, 2010, the commissioner shall submit a report evaluating and recommending options to provide for the long-term protection of the state's surface water and groundwater resources and the funding of programs to provide this protection.

\$275,000 the first year and \$275,000 the second year are for grants for up to 50 percent of the cost of implementation of the Red River mediation agreement. The commissioner shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with the grants by January 15, 2012.

\$60,000 the first year and \$60,000 the second year are for a grant to the Mississippi Headwaters Board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under the board's jurisdiction.

\$5,000 the first year and \$5,000 the second year are for payment to the Leech Lake Band of Chippewa Indians to implement the band's portion of the comprehensive plan for the upper Mississippi.

\$125,000 the first year and \$125,000 the second year are for the construction of ring dikes under Minnesota Statutes, section 103F.161. The ring dikes may be publicly or privately owned. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

By October 1, 2009, the commissioner shall develop a plan for the development of an adequate groundwater level monitoring network of wells in the 11-county metropolitan area. The commissioner, working with the Metropolitan Council, the Department of Homeland Security, and the commissioner of the Pollution Control Agency, shall design the network so that the wells can be used to identify threats to groundwater quality and institute practices to protect the groundwater from degradation. The network must be sufficient to ensure that water use in the metropolitan area does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs. The plan should include recommendations on the necessary payment rates for users of the system expressed in cents per gallon for well drilling, operation, and maintenance.

Subd. 4. Forest Management39,609,00038,259,000Appropriations by Fund

<u>General</u>	<u>25,952,000</u>	<u>25,952,000</u>
<u>Natural Resources</u>	<u>12,193,000</u>	<u>11,093,000</u>
<u>Game and Fish</u>	<u>1,464,000</u>	<u>1,214,000</u>

\$2,000,000 each year is to maintain forest management operations. This is a onetime appropriation.

\$1,200,000 the first year and \$950,000 the second year are from the heritage enhancement account in the game and fish fund to maintain and expand the ecological classification system program on state forest lands and prevent the introduction and spread of invasive species on state lands. This is a onetime appropriation.

\$7,217,000 the first year and \$7,217,000 the second year are for prevention, presuppression, and suppression costs of emergency firefighting and other costs incurred under Minnesota Statutes, section 88.12. If the appropriation for either year is insufficient to cover all costs of presuppression and suppression, the amount necessary to pay for these costs during the biennium is appropriated from the general fund.

By January 15 of each year, the commissioner of natural resources shall submit a report to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over environment and natural resources finance, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. These appropriations may not be transferred. Any reimbursement of firefighting expenditures made to the commissioner from any source other than federal mobilizations shall be deposited into the general fund.

\$12,193,000 the first year and \$11,093,000 the second year are from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

\$780,000 the first year and \$780,000 the second year are for the Forest Resources Council for implementation of the Sustainable Forest Resources Act.

Subd. 5. Parks and Trails Management67,372,00067,372,000Appropriations by Fund

<u>General</u>	<u>21,857,000</u>	<u>21,857,000</u>
<u>Natural Resources</u>	<u>43,321,000</u>	<u>43,321,000</u>
<u>Game and Fish</u>	<u>2,194,000</u>	<u>2,194,000</u>

\$1,175,000 the first year and \$1,175,000 the second year are from the water recreation account in the natural resources fund for enhancing public water access facilities. Of this amount, \$100,000 is a onetime appropriation to provide downloadable GPS coordinates and river gauge data interpretation. The base appropriation is \$1,075,000.

The appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 6, from the water recreation account in the natural resources fund for a cooperative project with the United States Army Corps of Engineers to develop the Mississippi Whitewater Park is available until June 30, 2011. The project must be designed to prevent the spread of aquatic invasive species.

\$4,371,000 the first year and \$4,371,000 the second year are from the natural resources fund for state park and recreation area operations. Of this amount, \$375,000 each year is for coordinated activities with Explore Minnesota Tourism. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

\$8,424,000 the first year and \$8,424,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for the snowmobile grants-in-aid program. This additional money may be used for new grant-in-aid trails. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$400,000 the first year and \$400,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for operation and maintenance of state trails and increased oversight and training for the grant-in-aid program. This is a onetime appropriation.

\$1,360,000 the first year and \$1,360,000 the second year are from the natural resources fund for the off-highway vehicle grants-in-aid program. Of this amount, \$1,110,000 each year is from the all-terrain vehicle account; \$150,000 each year is from the off-highway motorcycle account; and \$100,000 each year is from the off-road vehicle account. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$760,000 the first year and \$760,000 the second year are from the natural resources fund for state trail operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

Subd. 6. Fish and Wildlife Management

67,574,000

67,424,000

Appropriations by Fund

General

1,340,000

1,340,000

<u>Natural Resources</u>	<u>1,976,000</u>	<u>1,976,000</u>
<u>Game and Fish</u>	<u>64,258,000</u>	<u>64,108,000</u>

\$100,000 the first year and \$100,000 the second year are from the nongame wildlife account in the natural resources fund for gray wolf research.

\$120,000 the first year and \$120,000 the second year from the game and fish fund are for gray wolf management.

\$285,000 the first year and \$285,000 the second year are from the walleye stamp account in the game and fish fund for the purposes specified under Minnesota Statutes, section 97A.075, subdivision 6. Of this amount, \$25,000 must be spent in the first year to provide signage to each independent licensed dealer for display and promotion of the walleye stamp.

\$600,000 the first year and \$600,000 the second year are to accelerate wildlife health programs. This is a onetime appropriation.

\$1,860,000 the first year and \$1,860,000 the second year are from the wildlife acquisition surcharge account for only the purposes specified in Minnesota Statutes, section 97A.071, subdivision 2a. This appropriation is available until spent.

\$8,167,000 the first year and \$8,167,000 the second year are from the heritage enhancement account in the game and fish fund only for activities specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). Of this amount, at least 20 percent must be used to purchase or restore land, of which over half must be used for restoration. Notwithstanding Minnesota Statutes, section 297A.94, five percent of this appropriation may be used for expanding hunter and angler recruitment and retention. This appropriation may be used to leverage other funds and to provide fish and wildlife technical assistance for shallow lake management and restoration and stream and lake shoreland and habitat improvement and maintenance on private lands.

Notwithstanding Minnesota Statutes, section 84.943, \$13,000 the first year and \$13,000 the second year from the critical habitat private sector matching account may be used to publicize the critical habitat license plate match program.

\$830,000 the first year and \$830,000 the second year are from the trout and salmon management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 3.

\$1,553,000 the first year and \$1,553,000 the second year are from the deer management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (b).

\$890,000 the first year and \$890,000 the second year are from the deer and bear management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (c).

\$700,000 the first year and \$700,000 the second year are from the waterfowl habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 2.

\$925,000 the first year and \$925,000 the second year are from the pheasant habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 4.

\$192,000 the first year and \$192,000 the second year are from the wild turkey management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 5. Of this amount, \$8,000 the first year and \$8,000 the second year are transferred from the game and fish fund to the wild turkey management account.

\$535,000 the first year and \$535,000 the second year are for preserving, restoring, and enhancing grassland/wetland complexes on public or private lands.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2011, for aquatic restoration grants and wildlife habitat grants are available until June 30, 2012.

Subd. 7. Ecological Services

14,175,000

14,175,000

Appropriations by Fund

<u>General</u>	<u>6,230,000</u>	<u>6,230,000</u>
<u>Natural Resources</u>	<u>3,994,000</u>	<u>3,994,000</u>
<u>Game and Fish</u>	<u>3,951,000</u>	<u>3,951,000</u>

\$1,223,000 the first year and \$1,223,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management. Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame wildlife information, education, and promotion.

\$1,636,000 the first year and \$1,636,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$2,142,000 the first year and \$2,142,000 the second year are from the invasive species account, and \$2,090,000 the first year and \$2,090,000 the second year are from the general fund for management, public awareness, assessment and monitoring research, law enforcement, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands. Funds from this appropriation may not be used to purchase or use pesticides suspected by current science of being endocrine disruptors.

The commissioner shall report on the projected outcomes and goals for protecting species in all ecological provinces and the quantity and quality of groundwater and surface water of the state, including but not limited to, protecting rare and endangered species, native prairies, and wetlands, from merging ecological services and waters duties to the senate and house natural resources policy and finance committees and divisions. The commissioner shall not merge ecological services and waters duties prior to presenting the report to the committees and divisions. Any merger must include a variant of the word "ecology" in the title of the new division.

Subd. 8. **Enforcement**

31,490,000

31,490,000

Appropriations by Fund

<u>General</u>	<u>2,889,000</u>	<u>2,889,000</u>
<u>Natural Resources</u>	<u>8,531,000</u>	<u>8,531,000</u>
<u>Game and Fish</u>	<u>19,970,000</u>	<u>19,970,000</u>
<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>

\$1,082,000 the first year and \$1,082,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety.

\$315,000 the first year and \$315,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for grants to local law enforcement agencies for snowmobile enforcement activities.

\$1,164,000 the first year and \$1,164,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

\$510,000 the first year and \$510,000 the second year are from the natural resources fund for grants to county law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use in the county. Of this amount, \$498,000 each year is from the all-terrain vehicle account; \$11,000 each year is from the off-highway motorcycle account; and \$1,000 each year is from the off-road vehicle account. The county enforcement agencies may use money received under this appropriation to make grants to other local enforcement agencies within the county that have a high concentration of off-highway vehicle use. Of this appropriation, \$25,000 each year is for administration of these grants.

\$250,000 the first year and \$250,000 the second year are from the all-terrain vehicle account for grants to qualifying organizations to assist in safety and environmental education and monitoring trails on public lands under Minnesota Statutes, section 84.9011. Grants issued under this paragraph: (1) must be issued through a formal agreement with the organization; and (2) must not be used as a substitute for traditional spending by the organization. By December 15 each year, an organization receiving a grant under this paragraph shall report to the commissioner with details on expenditures and outcomes from the grant. By January 15, 2011, the commissioner shall report on the expenditures and outcomes of the grants to the chairs and ranking minority members of the natural resources policy and finance committees and divisions. Of this appropriation, \$25,000 each year is for administration of these grants.

The commissioner must publicize opportunities for conservation officer employment and recruit, when possible, conservation officer candidates from the biological sciences departments at colleges and universities.

Subd. 9. Operations Support

2,963,000

2,963,000

Appropriations by Fund

<u>General</u>	<u>1,340,000</u>	<u>1,340,000</u>
<u>Natural Resources</u>	<u>534,000</u>	<u>534,000</u>
<u>Game and Fish</u>	<u>1,089,000</u>	<u>1,089,000</u>

The commissioner may redirect the general fund reduction of \$800,000 in fiscal year 2010 and \$800,000 in fiscal year 2011, to other subdivisions of this section. No grants may be reduced. The commissioner shall report by October 1, 2011, to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance regarding any redirection and what department outcomes were affected by the redirection.

\$320,000 the first year and \$320,000 the second year are from the natural resources fund for grants to be divided equally between the city of St. Paul for the Como Zoo and Conservatory and the city of Duluth for the Duluth Zoo. This appropriation is from the revenue deposited to the fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 5. **BOARD OF WATER AND SOIL RESOURCES**

\$15,618,000

\$15,343,000

\$3,900,000 the first year and \$3,900,000 the second year are for natural resources block grants to local governments. The board may reduce the amount of the natural resources block grant to a county by an amount equal to any reduction in the county's general services allocation to a soil and water conservation district from the county's previous year allocation when the board determines that the reduction was disproportionate. Grants must be matched with a combination of local cash or in-kind contributions. The base grant portion related to water planning must be matched by an amount as specified by Minnesota Statutes, section 103B.3369.

\$3,500,000 the first year and \$3,500,000 the second year are for grants requested by soil and water conservation districts for general purposes, nonpoint engineering, and implementation of the reinvest in Minnesota conservation reserve program. Upon approval of the board, expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts. Any district requesting a grant under this paragraph shall maintain a Web page that publishes, at a minimum, its annual plan, annual report, annual audit, annual budget, including membership dues, and meeting notices and minutes.

\$500,000 the first year and \$500,000 the second year are for feedlot water quality grants for feedlots under 300 animal units where there are impaired waters.

\$2,000,000 the first year and \$2,000,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control, water quality management, of which at least \$900,000 each year is for establishing and maintaining riparian vegetation buffers of restored native prairie and restored prairie.

\$100,000 the first year and \$100,000 the second year are available for county cooperative weed management programs and to restore native plants in selected invasive species management sites by providing local native seeds and plants to landowners for implementation.

Notwithstanding Minnesota Statutes, section 103C.501, the board may shift cost-share funds in this section and may adjust the technical and administrative assistance portion of the grant funds to leverage federal or other nonstate funds or to address high-priority needs identified in local water management plans.

\$500,000 the first year and \$500,000 the second year are for implementation and enforcement of the Wetland Conservation Act. The board must make available information about final enforcement actions on the board's Web site.

\$60,000 each year is for staff to monitor and enforce wetland replacement, wetland bank sites, and the Wetland Conservation Act. The board must include in its biennial report to the legislature information on all state and local units of government, including special purpose districts and impacts on wetlands in the state. This information must be made available on the board's Web site.

\$100,000 each year is for transfer to the commissioner of natural resources for enforcement of wetland violations.

\$100,000 each year is to make grants to local units of government within the 11-county metropolitan area to improve response to major wetland violations.

\$100,000 each year is for cost-share grants to local governments for public drainage records modernization.

\$212,000 each year is to provide assistance to local drainage management officials and for the costs of the Drainage Work Group.

\$90,000 the first year and \$90,000 the second year are for a grant to the Red River Basin Commission for water quality and floodplain management, including administration of programs. The commission shall submit a report to the chairs of the legislative committees having primary jurisdiction over environment and natural resources policy and finance on the accomplishments achieved with this appropriation by January 15, 2012. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

\$90,000 each year is to the Minnesota River Basin Joint Powers Board, also known as the Minnesota River Board, for operating expenses to measure and report the results of projects in the 12 major watersheds within the Minnesota River basin.

\$130,000 each year is for grants to Area II, Minnesota River Basin Projects, for floodplain management, including administration of programs.

Notwithstanding Minnesota Statutes, section 103C.501, a balance in the board's cost-share program is available for \$150,000 each year for evaluating and reporting on performance, financial, and activity information of local water management entities as provided for in Minnesota Statutes, section 103B.102.

The appropriations for grants in this section are available until expended. If an appropriation for grants in either year is insufficient, the appropriation in the other year is available for it.

To the extent possible, any person conducting a restoration with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

A recipient of a grant funded by an appropriation under this section shall display on its Web site detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds, and submit this information to the board by June 30 each year. A recipient without an active Web site shall report to the board by June 30 each year detailed information on the expenditure of the grant funds, and measurable outcomes as a result of the expenditure of funds. The board shall display the information received by recipients under this paragraph on the board's Web site.

The board shall require the chief financial officer or other financial staff to display the board's budget on the board's Web site in a manner that will allow citizens to understand more easily the value they are getting for their money.

Sec. 6. **METROPOLITAN COUNCIL**

\$8,880,000

\$8,880,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>3,810,000</u>	<u>3,810,000</u>
<u>Natural Resources</u>	<u>5,070,000</u>	<u>5,070,000</u>

\$3,810,000 the first year and \$3,810,000 the second year are for metropolitan area regional parks operation and maintenance according to Minnesota Statutes, section 473.351.

\$5,070,000 the first year and \$5,070,000 the second year are from the natural resources fund for metropolitan area regional parks and trails maintenance and operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (3).

Sec. 7. **MINNESOTA CONSERVATION CORPS**

\$945,000

\$945,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>455,000</u>	<u>455,000</u>
<u>Natural Resources</u>	<u>490,000</u>	<u>490,000</u>

The Minnesota Conservation Corps may receive money appropriated from the natural resources fund under this section only as provided in an agreement with the commissioner of natural resources.

Sec. 8. **ZOOLOGICAL BOARD** **\$6,728,000** **\$6,728,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>6,568,000</u>	<u>6,568,000</u>
<u>Natural Resources</u>	<u>160,000</u>	<u>160,000</u>

\$160,000 the first year and \$160,000 the second year are from the natural resources fund from the revenue deposited under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 9. **SCIENCE MUSEUM OF MINNESOTA** **\$1,187,000** **\$1,187,000**

Sec. 10. Minnesota Statutes 2008, section 84.0835, subdivision 3, is amended to read:

Subd. 3. **Citation authority.** Employees designated by the commissioner under subdivision 1 may issue citations, as specifically authorized under this subdivision, for violations of:

(1) sections 85.052, subdivision 3 (payment of camping fees in state parks), 85.45, subdivision 1 (cross-country ski pass), ~~and~~ 85.46 (horse trail pass), and 84.9275 (nonresident all-terrain vehicle state trail pass);

(2) rules relating to hours and days of operation, restricted areas, noise, fireworks, environmental protection, fires and refuse, pets, picnicking, camping and dispersed camping, nonmotorized uses, construction of unauthorized permanent trails, mooring of boats, fish cleaning, swimming, storage and abandonment of personal property, structures and stands, animal trespass, state park individual and group motor vehicle permits, licensed motor vehicles, designated roads, and snowmobile operation off trails;

(3) rules relating to off-highway vehicle registration, display of registration numbers, required equipment, operation restrictions, off-trail use for hunting and trapping, and operation in lakes, rivers, and streams;

(4) rules relating to off-highway vehicle and snowmobile operation causing damage or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

(5) rules relating to parking, snow removal, and damage on state forest roads; and

(6) rules relating to controlled hunting zones on major wildlife management units.

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

Sec. 11. **[84.0854] GIFT CARD AND CERTIFICATE SALES; RECEIPTS; TRANSFERS; APPROPRIATION.**

Subdivision 1. Sales authorized; gift cards and certificates. The commissioner may sell gift cards and certificates that can be used to purchase licenses, permits, products, or services sold by the commissioner. Gift cards and certificates are valid until they are redeemed. The commissioner may advertise the availability of this program and items offered for sale under this section. The commissioner may make the purchase and redemption of gift cards available electronically.

Subd. 2. Receipts; disposition. Proceeds of gift card and certificate sales shall be deposited in an account in the special revenue fund. When gift cards or certificates are redeemed, funds shall be transferred to the appropriate account or fund based on the license, permit, product, or service purchased. Money in the gift card and certificate account shall accrue interest, which shall be credited to the account. Interest on funds in the account is appropriated to the commissioner to help cover the cost of administering the gift card and certificate program. Money from gift cards and certificates sold but unredeemed after three years shall be transferred to the various accounts and funds receiving revenue from purchases of licenses, permits, products, or services purchased with gift card or certificate redemptions in the last two fiscal years. Unredeemed funds shall be distributed based on the dollar value of cards redeemed for the various licenses, permits, products, or services on a pro rata basis.

Subd. 3. Exemption from rulemaking. This section is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 12. Minnesota Statutes 2008, section 84.415, subdivision 5, is amended to read:

Subd. 5. Fee Fees; disposition. (a) In the event the construction of such lines causes damage to timber or other property of the state on or along the same, the license or permit shall also provide for payment to the commissioner of finance of the amount thereof of the damages as may be determined by the commissioner.

(b) The application fee specified in Minnesota Rules is credited to the general fund.

~~All money received under such licenses or permits~~ (c) The utility crossing fees specified in Minnesota Rules shall be credited to the fund to which other income or proceeds of sale from such the land would be credited, if provision therefor be made as provided by law, otherwise to the general fund.

(d) Money received from licenses and permits issued under this section for use of the beds of navigable waters shall be credited to the permanent school fund.

(e) Money received under subdivision 6 must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the costs incurred for issuing and monitoring utility licenses.

Sec. 13. Minnesota Statutes 2008, section 84.415, is amended by adding a subdivision to read:

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

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

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

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

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

Sec. 14. Minnesota Statutes 2008, section 84.63, is amended to read:

84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE AND FEDERAL GOVERNMENTS.

(a) Notwithstanding any existing law to the contrary, the commissioner of natural resources is hereby authorized on behalf of the state to convey to the United States or to the state of Minnesota or any of its subdivisions, upon state-owned lands under the administration of the commissioner of natural resources, permanent or temporary easements for specified periods or otherwise for trails, highways, roads including limitation of right of access from the lands to adjacent highways and roads, flowage for development of fish and game resources, stream protection, flood control, and necessary appurtenances thereto, such conveyances to be made upon such terms and conditions including provision for reversion in the event of non-user as the commissioner of natural resources may determine.

(b) In addition to the fee for the market value of the easement, the commissioner of natural resources shall assess the applicant the following fees:

(1) an application fee of \$2,000 to cover reasonable costs for reviewing the application and preparing the easement; and

(2) a monitoring fee to cover the projected reasonable costs for monitoring the construction of the improvement for which the easement was conveyed and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee.

(c) The applicant shall pay these fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

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

(e) Money received under paragraph (b) must be deposited in the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred for issuing and monitoring easements.

Sec. 15. Minnesota Statutes 2008, section 84.631, is amended to read:

84.631 ROAD EASEMENTS ACROSS STATE LANDS.

(a) Except as provided in section 85.015, subdivision 1b, the commissioner, on behalf of the state, may convey a road easement across state land under the commissioner's jurisdiction other than school trust land, to a private person requesting an easement for access to property owned by the person only if the following requirements are met: (1) there are no reasonable alternatives to obtain access to the property; and (2) the exercise of the easement will not cause significant adverse environmental or natural resource management impacts.

(b) The commissioner shall:

- (1) require the applicant to pay the market value of the easement;
- (2) provide that the easement reverts to the state in the event of nonuse; and
- (3) impose other terms and conditions of use as necessary and appropriate under the circumstances.

(c) An applicant shall submit ~~a~~ an application fee of up to \$2,000 with each application for a road easement across state land. ~~The commissioner must give the applicant an estimate of the costs of the road easement before the applicant submits the fee.~~ The application fee is nonrefundable, even if the application is withdrawn or denied.

(d) In addition to the payment for the market value of the easement and the application fee, the commissioner of natural resources shall assess the applicant a monitoring fee to cover the projected reasonable costs for monitoring the construction of the road and preparing special terms and conditions for the easement. The commissioner must give the applicant an estimate of the monitoring fee before the applicant submits the fee. The applicant shall pay the application and monitoring fees to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid in full the application fee, the monitoring fee, and the market value payment for the easement.

(e) Upon completion of construction of the road, the commissioner shall refund the unobligated balance from the monitoring fee revenue.

(f) Fees collected under ~~paragraph~~ paragraphs (c) and (d) must be deposited in credited to the land management account in the natural resources fund and are appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 16. Minnesota Statutes 2008, section 84.632, is amended to read:

84.632 CONVEYANCE OF UNNEEDED STATE EASEMENTS.

(a) Notwithstanding section 92.45, the commissioner of natural resources may, in the name of the state, release all or part of an easement acquired by the state upon application of a landowner whose property is burdened with the easement if the easement is not needed for state purposes.

(b) All or part of an easement may be released by payment of ~~consideration of not less than \$500, to be determined by the commissioner~~ the market value of the easement. The release must be in a form approved by the attorney general.

(c) Money received ~~for release of the easement~~ under paragraph (b) must be credited to the account from which money was expended for purchase of the easement. If there is no specific account, the money must be credited to the land acquisition account established in section 94.165.

(d) In addition to payment under paragraph (b), the commissioner of natural resources shall assess a landowner who applies for a release under this section an application fee of \$2,000 for reviewing the application and preparing the release of easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the release of easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(e) Money received under paragraph (d) must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 17. Minnesota Statutes 2008, section 84.922, subdivision 1a, is amended to read:

Subd. 1a. **Exemptions.** All-terrain vehicles exempt from registration are:

- (1) vehicles owned and used by the United States, the state, another state, or a political subdivision;
- (2) vehicles registered in another state or country that have not been in this state for more than 30 consecutive days;
- (3) vehicles that:
 - (i) are owned by a resident of another state or country that does not require registration of all-terrain vehicles;
 - (ii) have not been in this state for more than 30 consecutive days; and
 - (iii) are operated on state and grant-in-aid trails by a nonresident possessing a nonresident all-terrain vehicle state trail pass;
- ~~(3)~~ (4) vehicles used exclusively in organized track racing events; and
- ~~(4)~~ (5) vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer.

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

Sec. 18. **[84.9275] NONRESIDENT ALL-TERRAIN VEHICLE STATE TRAIL PASS.**

Subdivision 1. **Pass required; fee.** (a) A nonresident may not operate an all-terrain vehicle on a state or grant-in-aid all-terrain vehicle trail unless the operator carries a valid nonresident all-terrain vehicle state trail pass in immediate possession. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835.

(b) The commissioner of natural resources shall issue a pass upon application and payment of a \$20 fee. The pass is valid from January 1 through December 31. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the all-terrain vehicle account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid to counties and municipalities for all-terrain vehicle organizations to construct and maintain all-terrain vehicle trails and use areas.

(c) A nonresident all-terrain vehicle state trail pass is not required for:

- (1) an all-terrain vehicle that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.922, subdivision 1a; or
- (2) a person operating an all-terrain vehicle only on the portion of a trail that is owned by the person or the person's spouse, child, or parent.

Subd. 2. **License agents.** The commissioner may appoint agents to issue and sell nonresident all-terrain vehicle state trail passes. The commissioner may revoke the appointment of an agent at any time. The commissioner may adopt additional rules as provided in section 97A.485, subdivision 11. An agent shall observe all rules adopted by the commissioner for accounting and handling of passes pursuant to section 97A.485, subdivision 11. An agent shall promptly deposit and remit all money received from the sale of the passes, exclusive of the issuing fee, to the commissioner.

Subd. 3. **Issuance of passes.** The commissioner and agents shall issue and sell nonresident all-terrain vehicle state trail passes. The commissioner shall also make the passes available through the electronic licensing system established under section 84.027, subdivision 15.

Subd. 4. **Agent's fee.** In addition to the fee for a pass, an issuing fee of \$1 per pass shall be charged. The issuing fee may be retained by the seller of the pass. Issuing fees for passes issued by the commissioner shall be deposited in the all-terrain vehicle account in the natural resources fund and retained for the operation of the electronic licensing system.

Subd. 5. **Duplicate passes.** The commissioner and agents shall issue a duplicate pass to persons whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate nonresident all-terrain vehicle state trail pass is \$2, with an issuing fee of 50 cents.

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

Sec. 19. Minnesota Statutes 2008, section 84D.15, subdivision 2, is amended to read:

Subd. 2. **Receipts.** Money received from surcharges on watercraft licenses under section 86B.415, subdivision 7, and civil penalties under section 84D.13 shall be deposited in the invasive species account. Each year, the commissioner of finance shall transfer from the game and fish fund to the invasive species account, the annual surcharge collected on nonresident fishing licenses under section 97A.475, subdivision 7, paragraph (b). In fiscal years 2010 and 2011, the commissioner of finance shall transfer \$725,000 from the water recreation account under section 86B.706 to the invasive species account.

Sec. 20. Minnesota Statutes 2008, section 85.015, subdivision 1b, is amended to read:

Subd. 1b. **Easements for ingress and egress.** (a) Notwithstanding section 16A.695, except as provided in paragraph (b), when a trail is established under this section, a private property owner who has a preexisting right of ingress and egress over the trail right-of-way is granted, without charge, a permanent easement for ingress and egress purposes only. The easement is limited to the preexisting crossing and reverts to the state upon abandonment. Nothing in this subdivision is intended to diminish or alter any written or recorded easement that existed before the state acquired the land for the trail.

(b) The commissioner of natural resources shall assess the applicant an application fee of \$2,000 for reviewing the application and preparing the easement. The applicant shall pay the application fee to the commissioner of natural resources. The commissioner shall not issue the easement until the applicant has paid the application fee in full. The commissioner shall not return the application fee, even if the application is withdrawn or denied.

(c) Money received under paragraph (b) must be credited to the land management account in the natural resources fund and is appropriated to the commissioner of natural resources to cover the reasonable costs incurred under this section.

Sec. 21. Minnesota Statutes 2008, section 85.053, subdivision 10, is amended to read:

Subd. 10. **Free entrance; totally and permanently disabled veterans.** The commissioner shall issue an annual park permit for no charge ~~for~~ to any veteran with a total and permanent service-connected disability, as determined by the United States Department of Veterans Affairs, who presents each year a copy of their determination letter to a park attendant or commissioner's designee. For the purposes of this section, "veteran" ~~with a total and permanent service-connected disability" means a resident who has a total and permanent service-connected disability as adjudicated by the United States Veterans Administration or by the retirement board of one of the several branches of the armed forces~~ has the meaning given in section 197.447.

EFFECTIVE DATE. This section is effective July 1, 2009, for state park permits issued on or after that date.

Sec. 22. Minnesota Statutes 2008, section 85.46, subdivision 3, is amended to read:

Subd. 3. **Issuance.** The commissioner of natural resources and agents shall issue and sell horse trail passes. The pass shall include the applicant's signature and other information deemed necessary by the commissioner. To be valid, a daily or annual pass must be signed by the person riding, leading, or driving the horse, and a commercial annual pass must be signed by the owner of the commercial trail riding facility.

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

Sec. 23. Minnesota Statutes 2008, section 85.46, subdivision 4, is amended to read:

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

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

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

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

Sec. 24. Minnesota Statutes 2008, section 85.46, subdivision 7, is amended to read:

Subd. 7. **Duplicate horse trail passes.** The commissioner of natural resources and agents shall issue a duplicate pass to a person or commercial trail riding facility owner whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate horse trail pass is \$2, with an issuing fee of 50 cents.

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

Sec. 25. **[86A.055] PROHIBITION ON SALES OF OUTDOOR RECREATION SYSTEM LANDS FOR CERTAIN PURPOSES.**

Notwithstanding Laws 2005, chapter 156, article 2, section 45, as amended by Laws 2007, chapter 148, article 2, section 73, or other law to the contrary, a state agency shall not sell land that, on or after the effective date of this section, is classified as a unit of the outdoor recreation system under section 86A.05, for the purpose of anticipated savings to the general fund.

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

Sec. 26. Minnesota Statutes 2008, section 92.685, is amended to read:

92.685 LAND MANAGEMENT ACCOUNT.

The land management account is created in the natural resources fund. Money credited to the account is appropriated annually to the commissioner of natural resources ~~for the Lands and Minerals Division~~ to administer the utility easement program under section 84.415, the easement program under section 84.63, the road easement program under section 84.631, the easement release program under section 84.632, and the trail easement program under section 85.015, subdivision 1b.

Sec. 27. Minnesota Statutes 2008, section 93.481, subdivision 1, is amended to read:

Subdivision 1. **Prohibition against mining without permit; application for permit.** Except as provided in this subdivision, after June 30, 1975, no person shall engage in or carry out a mining operation for metallic minerals within the state unless the person has first obtained a permit to mine from the commissioner. Any person engaging in or carrying out a mining operation as of the effective date of the rules ~~promulgated~~ adopted under section 93.47 shall apply for a permit to mine within 180 days after the effective date of such rules. Any such existing mining operation may continue during the pendency of the application for the permit to mine. The person applying for a permit shall apply on forms prescribed by the commissioner and shall submit such information as the commissioner may require, including but not limited to the following:

~~(a)~~ (1) a proposed plan for the reclamation or restoration, or both, of any mining area affected by mining operations to be conducted on and after the date on which permits are required for mining under this section;

~~(b)~~ (2) a certificate issued by an insurance company authorized to do business in the United States that the applicant has a public liability insurance policy in force for the mining operation for which the permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation;

(3) an application fee of:

(i) \$25,000 for a permit to mine for a taconite mining operation;

(ii) \$50,000 for a permit to mine for a nonferrous metallic minerals operation;

(iii) \$10,000 for a permit to mine for a scam mining operation; or

(iv) \$5,000 for a permit to mine for a peat operation;

~~(c)~~ (4) a bond which may be required pursuant to section 93.49; and

~~(d)~~ (5) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed mining area and reclamation or restoration operations, which advertisement shall be published in a legal newspaper in the locality of the proposed site at least once a week for four successive weeks before the application is filed, except that if the application is for a permit to conduct lean ore stockpile removal the advertisement need be published only once.

Sec. 28. Minnesota Statutes 2008, section 93.481, subdivision 3, is amended to read:

Subd. 3. **Term of permit; amendment.** A permit issued by the commissioner pursuant to this section shall be granted for the term determined necessary by the commissioner for the completion of the proposed mining operation, including reclamation or restoration. A permit may be amended upon written application to the commissioner. A permit amendment application fee must be submitted with the written application. The permit amendment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine. If the commissioner determines that the proposed amendment constitutes a substantial change to the permit, the person applying for the amendment shall publish notice in the same manner as for a new permit, and a hearing shall be held if written objections are received in the same manner as for a new permit. An amendment may be granted by the commissioner if the commissioner determines that lawful requirements have been met.

Sec. 29. Minnesota Statutes 2008, section 93.481, subdivision 5, is amended to read:

Subd. 5. **Assignment.** A permit may not be assigned or otherwise transferred without the written approval of the commissioner. A permit assignment application fee must be submitted with the written application. The permit assignment application fee is ten percent of the amount provided for in subdivision 1, clause (3), for an application for the applicable permit to mine.

Sec. 30. Minnesota Statutes 2008, section 93.481, subdivision 7, is amended to read:

Subd. 7. **Mining administration account.** The mining administration account is established as an account in the natural resources fund. ~~Ferrous mining administrative~~ Fees charged to owners, operators, or managers of mines under this section and section 93.482 shall be credited to the account and may be appropriated to the commissioner to cover the costs of providing and monitoring permits to mine ferrous metals under this section. Earnings accruing from investment of the account remain with the account until appropriated.

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

Sec. 31. **[93.482] RECLAMATION FEES.**

Subdivision 1. Annual permit to mine fee. (a) The commissioner shall charge every person holding a permit to mine an annual permit fee. The fee is payable to the commissioner by June 30 of each year, beginning in 2009.

(b) The annual permit to mine fee for a taconite mining operation is \$60,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$30,000 if there was no production within the immediately preceding calendar year.

(c) The annual permit to mine fee for a nonferrous metallic minerals mining operation is \$75,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$37,500 if there was no production within the immediately preceding calendar year.

(d) The annual permit to mine fee for a scam mining operation is \$5,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$2,500 if there was no production within the immediately preceding calendar year.

(e) The annual permit to mine fee for a peat mining operation is \$1,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and \$500 if there was no production within the immediately preceding calendar year.

Subd. 2. **Supplemental application fee for taconite and nonferrous metallic minerals mining operation.** (a) In addition to the application fee specified in section 93.481, the commissioner shall assess a person submitting an application for a permit to mine for a taconite or a nonferrous metallic minerals mining operation the reasonable costs for reviewing the application and preparing the permit to mine. For nonferrous metallic minerals mining, the commissioner shall assess reasonable costs for monitoring construction of the mining facilities.

(b) The commissioner must give the applicant an estimate of the supplemental application fee under this subdivision. The estimate must include a brief description of the tasks to be performed and the estimated cost of each task. The application fee under section 93.481 must be subtracted from the estimate of costs to determine the supplemental application fee.

(c) The applicant and the commissioner shall enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

(d) The commissioner shall not issue the permit to mine until the applicant has paid all fees in full. Upon completion of construction of a nonferrous metallic minerals facility, the commissioner shall refund the unobligated balance of the monitoring fee revenue.

Subd. 3. Reclamation fee on taconite iron ore produced. (a) For the purposes of this subdivision:

(1) "fee owner" means a person having any right, title, or interest in any minerals or mineral rights in this state from which taconite iron ore is mined. Fee owner does not include the United States, the state, or the University of Minnesota;

(2) "taconite iron ore" means a ferruginous chert or ferruginous slate in the form of compact siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron bearing particles of merchantable grade are smaller than 20 mesh; and

(3) "ton" means a gross ton of 2,240 pounds.

(b) A fee owner is subject to a reclamation fee of \$.0075 per ton of taconite iron ore mined from the minerals or mineral rights owned by the fee owner.

(c) The fee owner shall make payment to the commissioner no later than January 20 of each calendar year for ore removed during the previous calendar year. The fee owner is liable for the payment of the reclamation fee. The fee owner may enter into an agreement with the mining operator to make the payment on their behalf from royalties due and owing or other financial terms.

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

Sec. 32. Minnesota Statutes 2008, section 94.342, subdivision 3, is amended to read:

Subd. 3. **Additional restrictions on riparian land.** (a) Land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law is riparian land. Riparian land may not be given in exchange unless:

(1) expressly authorized by the legislature or unless;

(2) through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public;

(3) Class A land is being exchanged for Class A land; or

~~provided, that any (4) the exchange with is an agency of the United States or any agency thereof may be made free from this limitation upon condition that~~ and the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by section 92.45, unless waived as provided in this subdivision paragraph (b), and that there shall be reserved by the state such additional rights of public use upon suitable portions of such state land as the commissioner of natural resources, with the approval of the Land Exchange Board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses.

~~In regard to~~ (b) For Class B or riparian land that is contained within that portion of the Superior National Forest that is designated as the Boundary Waters Canoe Area Wilderness, the condition that state land given in exchange bordering on public waters must be subject to the public travel reservations provided in section 92.45, may be waived by the Land Exchange Board upon the recommendation of the commissioner of natural resources and, if the land is Class B land, the additional recommendation of the county board in which the land is located.

Sec. 33. Minnesota Statutes 2008, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (5), (6), (7), (11), (13), (15), (16), and (17), and 3, clauses (2), (3), (4), (9), (11), (12), and (13), and licenses issued under section 97B.301, subdivision 4.

(b) \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. ~~When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first time, \$750,000 is canceled to the unappropriated balance of the game and fish fund.~~ The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

~~Thereafter,~~ When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

Sec. 34. Minnesota Statutes 2008, section 103G.271, subdivision 6, is amended to read:

Subd. 6. **Water use permit processing fee.** (a) Except as described in paragraphs (b) to (f), a water use permit processing fee must be prescribed by the commissioner in accordance with the schedule of fees in this subdivision for each water use permit in force at any time during the year. The schedule is as follows, with the stated fee in each clause applied to the total amount appropriated:

(1) \$140 for amounts not exceeding 50,000,000 gallons per year;

(2) \$3.50 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;

(3) \$4 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year;

(4) \$4.50 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;

(5) \$5 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;

(6) \$5.50 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;

(7) \$6 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;

(8) \$6.50 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year;

(9) \$7 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but less than 450,000,000 gallons per year;

(10) \$7.50 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but less than 500,000,000 gallons per year; and

(11) \$8 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

(b) For once-through cooling systems, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) for nonprofit corporations and school districts, \$200 per 1,000,000 gallons; and

(2) for all other users, \$420 per 1,000,000 gallons.

(c) The fee is payable based on the amount of water appropriated during the year and, except as provided in paragraph (f), the minimum fee is \$100.

(d) For water use processing fees other than once-through cooling systems:

(1) the fee for a city of the first class may not exceed \$250,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) ~~\$50,000~~ \$60,000 per year for an entity holding three or fewer permits;

(ii) ~~\$75,000~~ \$90,000 per year for an entity holding four or five permits;

(iii) ~~\$250,000~~ \$300,000 per year for an entity holding more than five permits;

(3) the fee for agricultural irrigation may not exceed \$750 per year;

(4) the fee for a municipality that furnishes electric service and cogenerates steam for home heating may not exceed \$10,000 for its permit for water use related to the cogeneration of electricity and steam; and

(5) no fee is required for a project involving the appropriation of surface water to prevent flood damage or to remove flood waters during a period of flooding, as determined by the commissioner.

(e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due. A fee may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal governmental agency holding a water appropriation permit.

(f) The minimum water use processing fee for a permit issued for irrigation of agricultural land is \$20 for years in which:

- (1) there is no appropriation of water under the permit; or
- (2) the permit is suspended for more than seven consecutive days between May 1 and October 1.

(g) A surcharge of ~~\$20~~ \$30 per million gallons in addition to the fee prescribed in paragraph (a) shall be applied to the volume of water used in each of the months of June, July, and August that exceeds the volume of water used in January for municipal water use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities with more than one permit shall be determined based on the total appropriations from all permits that supply a common distribution system.

Sec. 35. Minnesota Statutes 2008, section 103G.301, subdivision 2, is amended to read:

Subd. 2. **Permit application fees.** (a) A permit application fee to defray the costs of receiving, recording, and processing the application must be paid for a permit authorized under this chapter and for each request to amend or transfer an existing permit. Fees established under this subdivision, unless specified in paragraph (c), shall be compliant with section 16A.1285.

(b) ~~The fee for a project appropriating~~ Proposed projects that require water in excess of 100 million gallons per year must be assessed fees to recover the reasonable costs of preparing and processing the permit, including costs incurred to evaluate the project and the costs incurred for environmental review. Fees collected under this paragraph must be credited to an account in the natural resources fund and are appropriated to the commissioner ~~for fiscal years 2008 and 2009.~~

(c) The fee to apply for a permit to appropriate water, ~~other than a permit subject to the~~ in addition to any fee under paragraph (b); a permit to construct or repair a dam that is subject to dam safety inspection; or a state general permit or to apply for the state water bank program is \$150. The application fee for a permit to work in public waters or to divert waters for mining must be at least \$150, but not more than \$1,000, ~~according to a schedule of fees adopted under section 16A.1285.~~

Sec. 36. Minnesota Statutes 2008, section 103G.301, subdivision 3, is amended to read:

Subd. 3. **Field inspection fees.** (a) In addition to the application fee, the commissioner may charge a field inspection fee for:

- (1) projects requiring a mandatory environmental assessment under chapter 116D;
 - (2) projects undertaken without a required permit or application; and
 - (3) projects undertaken in excess of limitations established in an issued permit.
- (b) The fee must be at least \$100 but not more than actual inspection costs.

(c) The fee is to cover actual costs related to a permit applied for under this chapter or for a project undertaken without proper authorization.

(d) The commissioner shall establish a schedule of field inspection fees under section 16A.1285. The schedule must include actual costs related to field inspection, including investigations of the area affected by the proposed activity, analysis of the proposed activity, consultant services, and subsequent monitoring, if any, of the activity authorized by the permit. Fees collected under this subdivision must be credited to an account in the natural resources fund and are appropriated to the commissioner.

Sec. 37. Minnesota Statutes 2008, section 115.03, subdivision 5c, is amended to read:

Subd. 5c. **Regulation of storm water discharges.** (a) The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after May 29, 2003.

(c) The agency shall develop performance standards, design standards, or other tools to enable and promote the implementation of low-impact development and other storm water management techniques. For the purposes of this section, "low-impact development" means an approach to storm water management that mimics a site's natural hydrology as the landscape is developed. Using the low-impact development approach, storm water is managed on-site and the rate and volume of predevelopment storm water reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation.

Sec. 38. Minnesota Statutes 2008, section 115.073, is amended to read:

115.073 ENFORCEMENT FUNDING.

Except as provided in section 115C.05, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, ~~up to the amount appropriated for implementation of Laws 1991, chapter 347,~~ must be deposited in the state treasury and credited to the environmental fund.

Sec. 39. Minnesota Statutes 2008, section 115.56, subdivision 4, is amended to read:

Subd. 4. **License fee.** (a) Until the agency adopts a final rule establishing fees for licenses under subdivision 2, the fee for a license required under subdivision 2 is \$100 \$200 per year and the annual license fee for a business with multiple licenses shall not exceed \$400.

(b) Revenue from the any fees charged by the agency for licenses under subdivision 2 must be credited to the environmental fund and is exempt from section 16A.1285.

Sec. 40. Minnesota Statutes 2008, section 115.77, subdivision 1, is amended to read:

Subdivision 1. **Fees established.** ~~The following fees are established for the purposes indicated:~~ agency shall collect fees in amounts necessary, but no greater than the amounts necessary, to cover the reasonable costs of reviewing applications and issuing certifications.

~~(1) application for examination, \$32;~~

~~(2) issuance of certificate, \$23;~~

~~(3) reexamination resulting from failure to pass an examination, \$32;~~

~~(4) renewal of certificate, \$23;~~

~~(5) replacement certificate, \$10; and~~

~~(6) reinstatement or reciprocity certificate, \$40.~~

Sec. 41. Minnesota Statutes 2008, section 115A.1314, subdivision 2, is amended to read:

Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account. Beginning in the second program year and continuing each program year thereafter, as of the last day of each program year, the commissioner of revenue shall determine the total amount of the variable fees that were collected. ~~By July 15, 2009, and each July 15 thereafter, the commissioner of the Pollution Control Agency shall inform the commissioner of revenue of the amount necessary to operate the program in the new program year.~~ To the extent that the total fees collected by the commissioner of revenue in connection with this section exceed the amount the commissioner of the Pollution Control Agency determines necessary to operate the program for the new program year, the commissioner of revenue shall refund on a pro rata basis, to all manufacturers who paid any fees for the previous program year, the amount of fees collected by the commissioner of revenue in excess of the amount necessary to operate the program for the new program year. No individual refund is required of amounts of \$100 or less for a fiscal year. Manufacturers who report collections less than 50 percent of their obligation for the previous program year are not eligible for a refund. ~~Amounts not refunded pursuant to this paragraph shall remain in the account. The commissioner of revenue shall issue refunds by August 10. In lieu of issuing a refund, the commissioner of revenue may grant credit against a manufacturer's variable fee due by September 1.~~

(b) Until June 30, ~~2009~~ 2011, money in the account is annually appropriated to the Pollution Control Agency:

(1) for the purpose of implementing sections 115A.1312 to 115A.1330, including transfer to the commissioner of revenue to carry out the department's duties under section 115A.1320, subdivision 2, and transfer to the commissioner of administration for responsibilities under section 115A.1324; and

(2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with counties outside the 11-county metropolitan area, as defined in paragraph (c), and with private entities that collect for recycling covered electronic devices in counties outside the 11-county metropolitan area, where the collection and recycling is consistent with the respective county's solid waste plan, for the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause, the commissioner must give preference to counties and private entities that are working cooperatively with manufacturers to help them meet their recycling obligations under section 115A.1318, subdivision 1.

(c) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Sec. 42. Minnesota Statutes 2008, section 115A.557, subdivision 1, is amended to read:

Subdivision 1. **Distribution; formula.** Any funds appropriated to the commissioner for the purpose of distribution to counties under this section must be distributed each fiscal year by the commissioner based on population, except a county may not receive less than \$55,000 in a fiscal year. If the amount available for distribution under this section is less or more than the amount available in fiscal year 2001, the minimum county payment under this section is reduced or increased proportionately. For purposes of this subdivision, "population" has the definition given in section 477A.011, subdivision 3. A county that participates in a multicounty district that manages solid waste and that has responsibility for recycling programs as authorized in section 115A.552, must pass through to the districts funds received by the county in excess of the minimum county payment under this section in proportion to the population of the county served by that district.

Sec. 43. **[115A.559] COMPOSTING COMPETITIVE GRANT PROGRAM.**

Subdivision 1. **Grant program established.** The commissioner shall make competitive grants to political subdivisions to increase composting, reduce the amount of organic wastes entering disposal facilities, and reduce the costs associated with hauling waste by locating the composting site as close as possible to the site where the waste is generated. To achieve the purpose of the grant program, the commissioner shall actively recruit potential applicants beyond traditional solid waste professionals and organizations, such as soil and water conservation districts and schools. Each grant must include an educational component on the methods and benefits of composting.

Subd. 2. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section.

(b) The determination of whether to make a grant under this section is within the discretion of the commissioner, subject to subdivision 4. The commissioner's decisions are not subject to judicial review, except for abuse of discretion.

Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the available appropriations, grants must be made for projects that, in the commissioner's judgment, provide the highest return in public benefits.

(b) To be eligible to receive a grant, a project must:

(1) be locally administered;

(2) have measurable outcomes; and

(3) include at least one of the following elements:

(i) the development of erosion control methods that use compost;

(ii) activities to encourage on-site composting by homeowners; or

(iii) activities to encourage composting by schools or public institutions.

Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

Sec. 44. Minnesota Statutes 2008, section 115A.931, is amended to read:

115A.931 YARD WASTE PROHIBITION.

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of reuse, composting, or cocomposting.

(b) [Renumbered 115A.03, subd 38]

(c) On or after January 1, 2010, a person may not place yard waste or source-separated compostable materials generated in a metropolitan county in a plastic bag delivered to a transfer station or compost facility unless the bag meets all the specifications in ASTM Standard Specification for Compostable Plastics (D6400). For purposes of this paragraph, "metropolitan county" has the meaning given in section 473.121, subdivision 4, and "ASTM" has the meaning given in section 296A.01, subdivision 6.

(d) A person who immediately empties a plastic bag containing yard waste or source-separated compostable materials delivered to a transfer station or compost facility and removes the plastic bag from the transfer station or compost facility is exempt from paragraph (c).

(e) Residents of a city of the first class that currently contracts for the collection of yard waste are exempt from paragraph (c) until January 1, 2013, if, by that date, the city implements a citywide source-separated compostable materials collection program using durable carts.

Sec. 45. Minnesota Statutes 2008, section 116.0711, is amended to read:

116.0711 FEEDLOT PERMIT CONDITIONS PERMITS; CONDITIONS; COUNTY GRANTS.

Subdivision 1. **Conditions.** (a) The agency shall not require feedlot permittees to maintain records as to rainfall or snowfall as a condition of a general feedlot permit if the owner directs the commissioner or agent of the commissioner to appropriate data on precipitation maintained by a government agency or educational institution.

(b) A feedlot permittee shall give notice to the agency when the permittee proposes to transfer ownership or control of the feedlot to a new party. The commissioner shall not unreasonably withhold or unreasonably delay approval of any transfer request. This request shall be handled in accordance with sections 116.07 and 15.992.

~~(c) The Environmental Quality Board shall review and recommend modifications to environmental review rules related to phased actions and animal agriculture facilities. The Environmental Quality Board shall report recommendations to the chairs of the committees of the senate and house of representatives with jurisdiction over agriculture and the environment by January 15, 2002.~~

~~(d) If the owner of an animal feedlot requests an extension for an application for a national pollutant discharge elimination permit or state disposal system permit by June 1, 2001, then the agency shall grant an extension for the application to September 1, 2001.~~

~~(e)~~ (c) An animal feedlot in shoreland that has been unused may resume operation after obtaining a permit from the agency or county, regardless of the number of years that the feedlot was unused.

Subd. 2. **County feedlot program grants; three-part formula.** (a) Money appropriated to the commissioner to make grants to delegated counties to administer the county feedlot program must be distributed according to the three-part formula in paragraphs (b) to (d).

(b) Number of feedlots in the county: 60 percent of the total appropriation must be distributed according to the number of feedlots that are required to be registered in the county. Grants awarded under this paragraph must be matched with a combination of local cash and in-kind contributions.

(c) Minimum program requirements: 25 percent of the total appropriation must be distributed based on the county (1) conducting an annual number of inspections at feedlots that is equal to or greater than seven percent of the total number of registered feedlots that are required to be registered in the county; and (2) meeting noninspection minimum program requirements as identified in the county feedlot workplan form. Counties that do not meet the inspection requirement must not receive 50 percent of the eligible funding under this paragraph. Counties must receive funding for noninspection requirements under this paragraph according to a scoring system checklist administered by the commissioner. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, shall make a final decision regarding any appeal by a county regarding the terms and conditions of this paragraph.

(d) Performance credits: 15 percent of the total appropriation must be distributed according to work that has been done by the counties during the fiscal year. The amount must be determined by the number of performance credits a county accumulates during the year based on a performance credit matrix jointly agreed upon by the commissioner in consultation with the Minnesota Association of County Feedlot Officers executive team. To receive an award under this paragraph, the county must meet the requirements of paragraph (c), clause (1), and achieve 90 percent of the requirements according to paragraph (c), clause (2), of the formula. The rate of reimbursement per performance credit item must not exceed \$200.

Subd. 3. **Minimum grant; prorated grant; transfers.** Delegated counties are eligible for a minimum grant of \$7,500. To receive the full \$7,500 amount, a county must meet the requirements under subdivision 2, paragraph (c). Nondelegated counties that apply for delegation shall receive a grant prorated according to the number of full quarters remaining in the program year from the date of commissioner approval of the delegation. Awards to any newly delegated counties must be made out of the appropriation reserved under subdivision 2, paragraph (d). The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, may decide to use money reserved under subdivision 2, paragraph (d), in an amount not to exceed five percent of the total annual appropriation for initiatives to enhance existing delegated county feedlot programs, information and education, or technical assistance efforts to reduce feedlot-related pollution hazards. Any amount remaining after distribution under subdivision 2, paragraphs (b) and (c), must be transferred for purposes of subdivision 2, paragraph (d).

Sec. 46. Minnesota Statutes 2008, section 116.41, subdivision 2, is amended to read:

Subd. 2. Training and certification programs. The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and ~~may~~ shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 47. **[116.9401] DEFINITIONS.**

(a) For the purposes of sections 116.9401 to 116.9407, the following terms have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Alternative" means a substitute process, product, material, chemical, strategy, or combination of these that is technically feasible and serves a functionally equivalent purpose to a chemical in a children's product.

(d) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(e) "Chemical of high concern" means a chemical identified on the basis of credible scientific evidence by a state, federal, or international agency as being known or suspected with a high degree of probability to:

(1) harm the normal development of a fetus or child or cause other developmental toxicity;

(2) cause cancer, genetic damage, or reproductive harm;

(3) disrupt the endocrine or hormone system;

(4) damage the nervous system, immune system, or organs, or cause other systemic toxicity;

(5) be persistent, bioaccumulative, and toxic; or

(6) be very persistent and very bioaccumulative.

(f) "Child" means a person under 12 years of age.

(g) "Children's product" means a consumer product intended for use by children, such as baby products, toys, car seats, personal care products, and clothing.

(h) "Commissioner" means the commissioner of the Pollution Control Agency.

(i) "Department" means the Department of Health.

(j) "Distributor" means a person who sells consumer products to retail establishments on a wholesale basis.

(k) "Green chemistry" means an approach to designing and manufacturing products that minimizes the use and generation of toxic substances.

(l) "Manufacturer" means any person who manufactures a final consumer product sold at retail or whose brand name is affixed to the consumer product. In the case of a consumer product imported into the United States, manufacturer includes the importer or domestic distributor of the consumer product if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not have a presence in the United States.

(m) "Priority chemical" means a chemical identified by the Department of Health as a chemical of high concern that meets the criteria in section 116.9403.

(n) "Safer alternative" means an alternative whose potential to harm human health is less than that of the use of a priority chemical that it could replace.

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

Sec. 48. **[116.9402] IDENTIFICATION OF CHEMICALS OF HIGH CONCERN.**

(a) By July 1, 2010, the department shall, after consultation with the agency, generate a list of chemicals of high concern.

(b) The department must periodically review and revise the list of chemicals of high concern at least every three years. The department may add chemicals to the list if the chemical meets one or more of the criteria in section 116.9401, paragraph (e).

(c) The department shall consider chemicals listed as a suspected carcinogen, reproductive or developmental toxicant, or as being persistent, bioaccumulative, and toxic, or very persistent and very bioaccumulative by a state, federal, or international agency. These agencies may include, but are not limited to, the California Environmental Protection Agency, the Washington Department of Ecology, the United States Department of Health, the United States Environmental Protection Agency, the United Nation's World Health Organization, and European Parliament Annex XIV concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals.

(d) The department may consider chemicals listed by another state as harmful to human health or the environment for possible inclusion in the list of chemicals of high concern.

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

Sec. 49. **[116.9403] IDENTIFICATION OF PRIORITY CHEMICALS.**

(a) The department, after consultation with the agency, may designate a chemical of high concern as a priority chemical if the department finds that the chemical:

(1) has been identified as a high-production volume chemical by the United States Environmental Protection Agency; and

(2) meets any of the following criteria:

(i) the chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(ii) the chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(iii) the chemical has been found through monitoring to be present in fish, wildlife, or the natural environment.

(b) By February 1, 2011, the department shall publish a list of priority chemicals in the State Register and on the department's Internet Web site and shall update the published list whenever a new priority chemical is designated.

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

Sec. 50. **[116.9405] APPLICABILITY.**

The requirements of sections 116.9401 to 116.9407 do not apply to:

(1) chemicals in used children's products;

(2) priority chemicals used in the manufacturing process, but that are not present in the final product;

(3) priority chemicals used in agricultural production;

(4) motor vehicles as defined in chapter 168 or watercraft as defined in chapter 86B or their component parts, except that the use of priority chemicals in detachable car seats is not exempt;

(5) priority chemicals generated solely as combustion by-products or that are present in combustible fuels;

(6) retailers;

(7) pharmaceutical products or biologics;

(8) a medical device as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h);

(9) food and food or beverage packaging, except a container containing baby food or infant formula;

(10) consumer electronics products and electronic components, including but not limited to personal computers; audio and video equipment; calculators; digital displays; wireless phones; cameras; game consoles; printers; and handheld electronic and electrical devices used to access interactive software or their associated peripherals; or products that comply with the provisions of directive 2002/95/EC of the European Union, adopted by the European Parliament and Council of the European Union now or hereafter in effect; or

(11) outdoor sport equipment, including snowmobiles as defined in section 84.81, subdivision 3; all-terrain vehicles as defined in section 84.92, subdivision 8; personal watercraft as defined in section 86B.005, subdivision 14a; watercraft as defined in section 86B.005, subdivision 18; and off-highway motorcycles, as defined in section 84.787, subdivision 7, and all attachments and repair parts for all of this equipment.

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

Sec. 51. **[116.9406] DONATIONS TO THE STATE.**

The commissioner may accept donations, grants, and other funds to carry out the purposes of sections 116.9401 to 116.9407. All donations, grants, and other funds must be accepted without preconditions regarding the outcomes of the regulatory oversight processes set forth in sections 116.9401 to 116.9407.

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

Sec. 52. **[116.9407] PARTICIPATION IN INTERSTATE CHEMICALS CLEARINGHOUSE.**

The state may cooperate with other states in an interstate chemicals clearinghouse regarding chemicals in consumer products, including the classification of priority chemicals in commerce; organizing and managing available data on chemicals, including information on uses, hazards, risks, and environmental and health concerns; and producing and evaluating information on safer alternatives to specific uses of priority chemicals.

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

Sec. 53. Minnesota Statutes 2008, section 116C.834, subdivision 1, is amended to read:

Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the Pollution Control Agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

- (1) the state contribution required to join the compact;
- (2) the expenses of the commission member and state agency costs incurred to support the work of the Interstate Commission; and
- (3) regulatory costs.

~~The fees are exempt from section 16A.1285.~~

Sec. 54. **[216H.021] GREENHOUSE GAS EMISSIONS REPORTING.**

Subdivision 1. **Commissioner to establish reporting system and maintain inventory.** In order to measure the progress in meeting the goals of section 216H.02, subdivision 1, and to provide information to develop strategies to achieve those goals, the commissioner of the Pollution Control Agency shall establish a system for reporting and maintaining an inventory of greenhouse gas emissions. The commissioner must consult with the chief information officer of the Office of Enterprise Technology about system design and operation. Greenhouse gas emissions include those emissions described in section 216H.01, subdivision 2.

Subd. 2. **Reporting system design.** (a) The commissioner shall, to the extent practicable, design the system to coordinate with other regional or federal greenhouse gas emissions-reporting and inventory systems. The coordination may, without limitation, include the use of similar forms and reports, the sharing of information, and the use of common facilities, systems, and databases.

(b) The reporting system need not include all sources of emissions nor all amounts of emissions but, at its outset, must include:

(1) all stationary sources and other facilities required to obtain a permit under Title V of the federal Clean Air Act, United States Code, title 42, section 7401 et. seq.; and

(2) facilities whose annual carbon dioxide equivalent emissions, as defined in section 216H.10, subdivision 3, exceed a threshold set by the commissioner at between 10,000 tons and 25,000 tons. The reporting threshold set by the commissioner must be consistent with the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies.

(c) In designing the greenhouse gas emissions reporting system, the commissioner shall consider requiring the reporting of greenhouse gas emissions from transportation fuels and greenhouse gas emissions from natural gas combustion that are not included in reporting from stationary sources. In determining whether to include reporting of these emissions, the commissioner must consider both the goal of accurately tracking progress in attaining greenhouse gas emissions-reduction goals and the need for emissions data to assist in developing greenhouse gas emissions-reduction strategies recommended by the Minnesota Climate Change Advisory Group. If the commissioner decides that transportation fuels and portions of natural gas combustion should not be included in the initial emissions reporting system, the commissioner must report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy and environmental policy the reasons for that decision and suggestions for steps that should be taken to allow their inclusion in the emissions reporting system in the future.

(d) A facility reporting greenhouse gas emissions under this section must maintain the data used to create the reports for a minimum of five years.

Subd. 3. **Rules.** The commissioner of the Pollution Control Agency may adopt rules for the purposes of this section.

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

Sec. 55. Minnesota Statutes 2008, section 216H.10, subdivision 7, is amended to read:

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

Sec. 56. Minnesota Statutes 2008, section 216H.11, is amended to read:

216H.11 HIGH-GWP GREENHOUSE GAS REPORTING.

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

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

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

Sec. 57. **[325E.046] STANDARDS FOR LABELING PLASTIC BAGS.**

Subdivision 1. **"Biodegradable" label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "biodegradable," "degradable," or any form of those terms, or in any way imply that the bag will chemically decompose into innocuous elements in a reasonably short period of time in a landfill, composting, or other terrestrial environment unless a scientifically based standard for biodegradability is developed and the bags are certified as meeting the standard.

Subd. 2. **"Compostable" label.** A manufacturer, distributor, or wholesaler may not offer for sale in this state a plastic bag labeled "compostable" unless, at the time of sale, the bag meets the ASTM Standard Specification for Compostable Plastics (D6400). Each bag must be labeled to reflect that it meets the standard. For purposes of this subdivision, "ASTM" has the meaning given in section 296A.01, subdivision 6.

Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A manufacturer, distributor, or wholesaler who violates subdivision 1 or 2 is subject to a civil penalty of \$100 for each prepackaged saleable unit offered for sale up to a maximum of \$5,000 and may be enjoined from those violations.

(b) The attorney general may bring an action in the name of the state in a court of competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in this subdivision. The attorney general may accept an assurance of discontinuance of acts in violation of subdivision 1 or 2 in the manner provided in section 8.31, subdivision 2b.

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

Sec. 58. **[383B.236] WASTE MANAGEMENT BY HENNEPIN COUNTY.**

The Hennepin County Board of Commissioners may utilize money received from the sale of energy and recovered materials and placed in the county solid and hazardous waste fund under section 473.811, subdivision 9, for program expenses of the Department of Environmental Services, or the department or office succeeding to the functions of the Department of Environmental Services. This authority shall be in addition to the authority given in section 473.811, subdivision 9.

Sec. 59. Laws 2005, chapter 156, article 2, section 45, as amended by Laws 2007, chapter 148, article 2, section 73, is amended to read:

Sec. 45. **SALE OF STATE LAND.**

Subdivision 1. **State land sales.** The commissioner of administration shall coordinate with the head of each department or agency having control of state-owned land to identify and sell at least \$6,440,000 of state-owned land. Sales should be completed according to law and as provided in this section as soon as practicable but no later than June 30, ~~2009~~ 2011. Notwithstanding Minnesota Statutes, sections 16B.281 and 16B.282, 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land for public sale by only providing notice of lands or an offer of sale of lands to state departments or agencies, the University of Minnesota, cities, counties, towns, school districts, or other public entities.

Subd. 2. **Anticipated savings.** Notwithstanding Minnesota Statutes, section 94.16, subdivision 3, or other law to the contrary, the amount of the proceeds from the sale of land under this section that exceeds the actual expenses of selling the land must be deposited in the general fund, except as otherwise provided by the commissioner of finance. Notwithstanding Minnesota Statutes, section 94.11 or 16B.283, the commissioner of finance may establish the timing of payments for land purchased under this section. If the total of all money deposited into the general fund from the proceeds of the sale of land under this section is anticipated to be less than \$6,440,000, the governor must allocate the amount of the difference as reductions to general fund operating expenditures for other executive agencies for the biennium ending June 30, ~~2009~~ 2011.

Subd. 3. **Sale of state lands revolving loan fund.** \$290,000 is appropriated from the general fund in fiscal year 2006 to the commissioner of administration for purposes of paying the actual expenses of selling state-owned lands to achieve the anticipated savings required in this section. From the gross proceeds of land sales under this section, the commissioner of administration must cancel the amount of the appropriation in this subdivision to the general fund by June 30, ~~2009~~ 2011.

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

Sec. 60. Laws 2007, chapter 57, article 1, section 4, subdivision 2, is amended to read:

Subd. 2. Land and Mineral Resources Management	11,747,000	11,272,000
Appropriations by Fund		
General	6,633,000	6,230,000
Natural Resources	3,551,000	3,447,000
Game and Fish	1,363,000	1,395,000
Permanent School	200,000	200,000

\$475,000 the first year and \$475,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in the natural resources fund and \$275,000 each year is from the general fund. \$237,500 the first year and \$237,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,800,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c).

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

\$15,000 the first year is for a report by February 1, 2008, to the house and senate committees with jurisdiction over environment and natural resources on proposed minimum legal and conservation standards that could be applied to conservation easements acquired with public money.

\$1,201,000 the first year and \$701,000 the second year are to support the land records management system. Of this amount, \$326,000 the first year and \$326,000 the second year are from the game and fish fund and \$375,000 the first year and \$375,000 the second year are from the natural resources fund. The unexpended balances are available until June 30, 2011. The commissioner must report to the legislative chairs on environmental finance on the outcomes of the land records management support.

\$500,000 the first year and \$500,000 the second year are for land asset management. This is a onetime appropriation.

Sec. 61. Laws 2008, chapter 363, article 5, section 4, subdivision 7, is amended to read:

Subd. 7. Fish and Wildlife Management	123,000	119,000
Appropriations by Fund		
General	-0-	(427,000)
Game and Fish	123,000	546,000

\$329,000 in 2009 is a reduction for fish and wildlife management.

\$46,000 in 2009 is a reduction in the appropriation for the Minnesota Shooting Sports Education Center.

\$52,000 in 2009 is a reduction for licensing.

\$123,000 in 2008 and \$246,000 in 2009 are from the game and fish fund to implement fish virus surveillance, prepare infrastructure to handle possible outbreaks, and implement control procedures for highest risk waters and fish production operations. This is a onetime appropriation.

Notwithstanding Minnesota Statutes, section 297A.94, paragraph (e), \$300,000 in 2009 is from the second year appropriation in Laws 2007, chapter 57, article 1, section 4, subdivision 7, from the heritage enhancement account in the game and fish fund to study, predesign, and design a shooting sports facilities at the Vermillion Highlands Wildlife Management Area authorized by Laws 2007, chapter 57, article 1, section 168 facility in the seven-county metropolitan area. This is available onetime only and is available until expended.

\$300,000 in 2009 is appropriated from the game and fish fund for only activities that improve, enhance, or protect fish and wildlife resources. This is a onetime appropriation.

Sec. 62. **SCORE REPORTING.**

Subdivision 1. 2010 requirement. The requirements for the report specified in Minnesota Statutes, section 115A.557, subdivision 3, paragraph (b), clause (2), that is due April 1, 2010, shall be abbreviated in scope. The information collected shall be sufficient for the commissioner of the Pollution Control Agency to determine that counties have complied with the requirements of this subdivision.

Subd. 2. Recommendations; report. The commissioner of the Pollution Control Agency, in consultation with the Association of Minnesota Counties, the Solid Waste Administrators Association, the Solid Waste Management Coordinating Board, and other interested parties shall make recommendations to amend the reporting requirements under Minnesota Statutes, section 115A.557, subdivision 3, in ways that reduce the resources counties employ to collect the data reported, while ensuring that estimation methods used to report data are consistent across counties and that the data reported are accurate and useful as a guide to solid waste management policy makers. The commissioner shall also make recommendations regarding the feasibility and desirability of multicounty reporting of the data. The commissioner's recommendations must be presented in a report submitted to the chairs and ranking minority members of the senate and house of representatives committees and divisions with primary jurisdiction over solid waste policy and finance no later than January 15, 2010.

Sec. 63. **PRIORITY CHEMICAL REPORTS.**

(a) By January 15, 2010, the commissioner of health, in consultation with the Pollution Control Agency, shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health regarding the progress on implementing new Minnesota Statutes, sections 116.9401 to 116.9407, and information on the progress of federal, international, and other states in identifying, prioritizing, evaluating, regulating, and reducing the use of chemicals of high concern and priority chemicals in children's products and in determining the availability of safer alternatives for specific applications and promoting the use of those safer alternatives.

(b) By December 15, 2010, the commissioner of the Pollution Control Agency shall report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over environment and natural resources policy, commerce, and public health assessing mechanisms used by other states, the federal government, and other countries to reduce and phase out the use of priority chemicals in children's products and promote the use of safer alternatives. The report shall include potential funding mechanisms to implement this process. The report must include recommendations to promote and provide incentives for product design that use principles of green chemistry and life-cycle analysis. In developing the report, the agency may consult with stakeholders, including representatives of state agencies, manufacturers of children's products, chemical manufacturers, public health experts, independent scientists, and public interest groups. The report must include information on any stakeholder process consulted with or used in developing the report.

(c) By January 15, 2010, the agency shall provide an interim report about the progress in developing the report required under paragraph (b), including information on the status of any stakeholder process.

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

Sec. 64. **REORGANIZATION PROHIBITION; ENVIRONMENTAL QUALITY BOARD.**

Notwithstanding Minnesota Statutes, section 16B.37, unless expressly provided by law, the commissioner of administration shall not reorganize the Environmental Quality Board within another agency, prior to July 1, 2011.

Sec. 65. **ENVIRONMENTAL REVIEW STREAMLINING REPORT.**

By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

Sec. 66. **COMPENSATION OF GOVERNOR'S STAFF.**

For fiscal years 2010 and 2011, the Department of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil Resources may not use funds appropriated in this article or funds from any statutory or open appropriation to pay directly or indirectly for the compensation costs of staff in the office of the governor.

Sec. 67. **FISH CONSUMPTION ADVISORIES.**

The commissioner of natural resources, in cooperation with the commissioner of health, shall ensure that fish consumption advisories are displayed in at least four different languages, one of which must be English, to fairly represent the population of the state.

Sec. 68. **CARBON SEQUESTRATION FORESTRY REPORT.**

The Minnesota Forest Resources Council shall review the Minnesota Climate Change Advisory Group's recommendation to increase carbon sequestration in forests by planting 1,000,000 acres of trees and shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over energy and energy finance, environment and natural resources, and environment and natural resources finance; the governor; and the commissioner of natural resources by January 15, 2010. The report shall, at a minimum, include recommendations on implementation and analysis of the number and ownership of acres available for tree planting, the types of native species best suited for planting, the availability of planting stock, and potential costs.

Sec. 69. **REPEALER.**

Laws 2008, chapter 363, article 5, section 30, is repealed.

ARTICLE 2

ENERGY FINANCE

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$27,291,000</u>	<u>\$27,041,000</u>	<u>\$54,332,000</u>
<u>Petroleum Tank Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>	<u>2,168,000</u>

<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>	<u>1,502,000</u>
<u>Telecommunications Access Minnesota</u>	<u>600,000</u>	<u>600,000</u>	<u>1,200,000</u>
<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>	<u>1,975,000</u>
<u>Total</u>	<u>\$31,076,000</u>	<u>\$30,101,000</u>	<u>\$61,177,000</u>

Sec. 2. **ENERGY FINANCE APPROPRIATIONS.**

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

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

Sec. 3. **DEPARTMENT OF COMMERCE**

Subdivision 1. <u>Total Appropriation</u>	<u>\$25,643,000</u>	<u>\$24,668,000</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>21,858,000</u>	<u>21,608,000</u>
<u>Petroleum Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>
<u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>
<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>
<u>Telecommunications</u>		
<u>Access Minnesota</u>	<u>600,000</u>	<u>600,000</u>

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

Subd. 2. <u>Financial Institutions</u>	<u>6,638,000</u>	<u>6,638,000</u>
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\$1,000 each year is for consumer small loan regulation modifications in article 7. This appropriation is added to the department's base.

Subd. 3. <u>Petroleum Tank Release Cleanup Board</u>	<u>1,084,000</u>	<u>1,084,000</u>
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This appropriation is from the petroleum tank release cleanup fund.
The base funding for this program ends June 30, 2012.

Subd. 4. <u>Administrative Services</u>	<u>4,300,000</u>	<u>4,300,000</u>
Subd. 5. <u>Telecommunications</u>	<u>1,010,000</u>	<u>1,010,000</u>
Subd. 6. <u>Market Assurance</u>	<u>7,421,000</u>	<u>7,421,000</u>
<u>Appropriations by Fund</u>		
General	<u>6,670,000</u>	<u>6,670,000</u>
Workers' Compensation	<u>751,000</u>	<u>751,000</u>
Subd. 7. <u>Office of Energy Security</u>	<u>4,590,000</u>	<u>3,615,000</u>
<u>Appropriations by Fund</u>		
General	<u>3,240,000</u>	<u>2,990,000</u>
Special Revenue	<u>1,350,000</u>	<u>625,000</u>

\$250,000 the first year is for E-85 grants under Laws 2007, chapter 57, article 2, section 3, subdivision 6. Grants for on-site blending pumps must include up to 75 percent of the total cost of the project, up to a maximum of \$15,000 per pump. This is a onetime appropriation.

The utility subject to Minnesota Statutes, section 116C.779, shall transfer \$1,350,000 in fiscal year 2010 and \$625,000 in fiscal year 2011 only to the Department of Commerce on a schedule determined by the commissioner of commerce. These funds must be deposited in the special revenue fund and are appropriated to the commissioner for grants to promote renewable energy projects and community energy outreach and assistance. Of the amounts identified:

(1) \$300,000 the first year is for a grant to the Board of Regents of the University of Minnesota for the Natural Resources and Research Institute at the University of Minnesota, Duluth, to develop statewide heat flow maps in order to determine the geothermal potential of the state of Minnesota;

(2) \$625,000 each year is for continued funding of community energy technical assistance and outreach on renewable energy and energy efficiency, as described in Minnesota Statutes, section 216C.385. Of this amount, \$125,000 each year is for technical assistance in the metropolitan area;

(3) \$25,000 the first year is for a grant to a nonprofit organization with experience in creating innovative partnerships through collaborative action with diverse interests, including businesses, government agencies, environmental organizations, and others, to manage a stakeholder process on green jobs that would integrate the work of the state Green Jobs Task Force and the mayors' initiative on green manufacturing; and

(4) \$400,000 the first year is to provide financial rebates for new solar electricity projects.

Subd. 8. Telecommunications Access Minnesota

600,000

600,000

\$300,000 the first year and \$300,000 the second year are for transfer to the commissioner of human services to supplement the ongoing operational expenses of the Minnesota Commission Serving Deaf and Hard-of-Hearing People. This appropriation is from the telecommunication access Minnesota fund, and is added to the commission's base. This appropriation consolidates, and is not in addition to, appropriation language from Laws 2006, chapter 282, article 11, section 4, and Laws 2007, chapter 57, article 2, section 3, subdivision 7.

\$300,000 each year is from the telecommunications access fund to the commissioner of commerce for a grant to the Legislative Coordinating Commission for a pilot program to provide captioning of live streaming of legislative sessions on the commission's Web site and a grant to the Commission of Deaf, DeafBlind, and Hard-of-Hearing Minnesotans to provide information on their Web site in American Sign Language and to provide technical assistance to state agencies. The commissioner of commerce may allocate a portion of this money to the Office of Technology to coordinate technology accessibility and usability.

Subd. 9. Transfers

By July 31, 2009, the commissioner of finance shall transfer \$500,000 from the unexpended balance in the auto theft prevention account to the general fund.

Sec. 4. PUBLIC UTILITIES COMMISSION

\$5,433,000

\$5,433,000

Sec. 5. Minnesota Statutes 2008, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; ~~and~~

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; ~~and~~

(8) assess a licensee the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigations. All money collected must be deposited into the general fund. A natural person licensed under chapter 60K or 82 shall not be charged costs of an investigation if the investigation results in no finding of a violation.

Sec. 6. Minnesota Statutes 2008, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. **Fees other than examination fees.** In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies;

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10;

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges;

(1) for filing an application for an initial certification of authority to be admitted to transact business in this state, \$1,500;

(2) for filing certified copy of certificate of articles of incorporation, \$100;

(3) for filing annual statement, \$225;

(4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

(5) for filing bylaws, \$75 or amendments thereto, \$75;

(6) for each company's certificate of authority, \$575, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(6) for each appointment of an agent filed with the commissioner, \$10;

(7) for filing forms, rates, and compliance certifications under section 60A.315, ~~\$90~~ \$140 per filing, or ~~\$75~~ \$125 per filing when submitted via electronic filing system. Filing fees may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 7. **[116J.438] MINNESOTA GREEN ENTERPRISE ASSISTANCE.**

(a) The commissioner of employment and economic development, in consultation with the commissioner of commerce, shall lead a multiagency project to advise, promote, market, and coordinate state agency collaboration on green enterprise and green economy projects, as defined in section 116J.437. The multiagency project must include the commissioners of employment and economic development, natural resources, agriculture, transportation, and commerce, and the Pollution Control Agency. The project must involve collaboration with the chairs and ranking minority members of legislative committees overseeing energy policy and energy finance, state agencies, local governments, representatives from business and agriculture, and other interested stakeholders. The objective of the project is to utilize existing state resources to expedite the delivery of grants, licenses, permits, and other state authorizations and approvals for green economy projects. The commissioner shall appoint a lead person to coordinate green enterprise assistance activities.

(b) The commissioner of employment and economic development shall seek out and may select persons from the business community to assist the commissioner in project activities.

(c) The commissioner may accept gifts, contributions, and in-kind services for the purposes of this section, under the authority provided in section 116J.035, subdivision 1. Any funds received must be placed in a special revenue account for the purposes of this section.

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

Sec. 8. Minnesota Statutes 2008, section 216B.62, subdivision 3, is amended to read:

Subd. 3. **Assessing all public utilities.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to ~~(1) public utilities under section 216A.085, sections 216A.085 and 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2 or 6, and (2) alternative energy engineering activity under section 216C.261 or 7.~~ The remainder, ~~except the amount assessed against cooperatives and municipalities for alternative energy engineering activity under subdivision 5,~~ shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 9. Minnesota Statutes 2008, section 216B.62, subdivision 4, is amended to read:

Subd. 4. **Objections.** Within 30 days after the date of the transmittal of any bill as provided by ~~subdivisions subdivision 2 and 3, or 7,~~ the public utility against which the bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days hold a hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Sec. 10. Minnesota Statutes 2008, section 216B.62, subdivision 5, is amended to read:

Subd. 5. **Assessing cooperatives and municipals.** The commission and department may charge cooperative electric associations, generation and transmission cooperative electric associations, municipal power agencies, and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes, proceedings under section 216B.1691, 216B.2425, or 216B.243, and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

~~The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.~~

Sec. 11. Minnesota Statutes 2008, section 216B.62, is amended by adding a subdivision to read:

Subd. 7. **Assessing all utilities.** The department shall assess public utilities, cooperative electric associations, and municipal utilities for the costs of activities under chapter 216C. The department shall not assess for costs of grants, loans, or other aids or for costs that can be recovered through other assessment authority. Each public utility, cooperative, and municipal utility shall be assessed in the proportion that its gross operating revenue for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

Sec. 12. **BULK INSTALLATION OF SOLAR PHOTOVOLTAIC PANELS ON SCHOOL BUILDINGS; FEASIBILITY STUDY AND REPORT.**

The director of the Office of Energy Security, in consultation with the commissioner of education, schools, school districts, and solar industry experts, must study the economic and technical feasibility of bulk installation of solar photovoltaic panels on school buildings in this state. The study must use a power-purchase agreement model in which a private company would pay for, install, and own the solar photovoltaic panels. No later than January 15, 2010, the director of the Office of Energy Security must report the results of the feasibility study, including whether the proposed model would reduce carbon emissions and result in savings to school districts, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over energy policy and finance.

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

Sec. 13. **APPROPRIATIONS; CANCELLATIONS.**

(a) The remaining balance of the fiscal year 2009 special revenue fund appropriation for the Green Jobs Task Force under Laws 2008, chapter 363, article 6, section 3, subdivision 4, is transferred and appropriated to the commissioner of employment and economic development for the purposes of green enterprise assistance under Minnesota Statutes, section 116J.438. This appropriation is available until spent.

(b) The unencumbered balance of the fiscal year 2008 appropriation to the commissioner of commerce for the rural and energy development revolving loan fund under Laws 2007, chapter 57, article 2, section 3, subdivision 6, is canceled and reappropriated as follows:

(1) \$1,500,000 is for a grant to the Board of Trustees of the Minnesota State Colleges and Universities for the International Renewable Energy Technology Institute (IRETI) to be located at Minnesota State University, Mankato, as a public and private partnership to support applied research in renewable energy and energy efficiency to aid in the transfer of technology from Sweden to Minnesota and to support technology commercialization from companies located in Minnesota and throughout the world; and

(2) the remaining balance is for a grant to the Board of Regents of the University of Minnesota for the initiative for renewable energy and the environment to fund start up costs related to a national solar testing and certification laboratory to test, rate, and certify the performance of equipment and devices that utilize solar energy for heating and cooling air and water and for generating electricity.

This appropriation is available until expended.

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

ARTICLE 3

DEPARTMENT OF COMMERCE; OTHER REGULATORY PROVISIONS

Section 1. Minnesota Statutes 2008, section 47.58, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, credit union subject to chapter 52, savings bank organized and operated pursuant to chapter 50, savings association subject to chapter 51A, any residential mortgage originator subject to chapter 58, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings association supervised by the Federal Home Loan Bank Board or federally chartered credit union supervised by the National Credit Union Administration, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the meanings given them:

(a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

(b) "Consumer small loan lender" is a financial institution as defined in section 47.59 or a ~~person~~ business entity registered with the commissioner and engaged in the business of making consumer small loans.

Sec. 3. Minnesota Statutes 2008, section 47.60, subdivision 3, is amended to read:

Subd. 3. **Filing.** Before a ~~person~~ business entity other than a financial institution as defined by section 47.59 engages in the business of making consumer small loans to Minnesota residents, the ~~person~~ business entity shall file with the commissioner as a consumer small loan lender. The filing must be on a form prescribed by the commissioner together with a fee of \$250 for each place of business and contain the following information in addition to the information required by the commissioner:

(1) evidence that the filer has available for the operation of the business at the location specified, liquid assets of at least \$50,000; and

(2) a biographical statement on the principal person responsible for the operation and management of the business to be certified.

Revocation of the filing ~~and the right to engage in the business of a consumer small loan lender~~ is the same as in the case of a regulated lender license in section 56.09.

For purposes of this subdivision, "business entity" includes one that does not have a physical location in Minnesota that makes a consumer small loan electronically via the Internet.

Sec. 4. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation.** A ~~person~~ business entity or the ~~person's~~ entity's members, officers, directors, agents, and employees who violate or participate in the violation of any of the provisions of this section may be liable in the same manner as in section 56.19.

Sec. 5. Minnesota Statutes 2008, section 48.21, is amended to read:

48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.

Subdivision 1. **Specific restrictions.** (a) A bank may purchase, carry as an asset, and convey real estate only:

- (1) as provided for in section 47.10;
- (2) if acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;
- (3) if conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;
- (4) if acquired by sale on execution or judgment of a court in its favor; or
- (5) if reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

(b) Real estate acquired under paragraph (a), clauses (2) to (5), shall be carried as an asset only in accordance with rules the commissioner prescribes. The maximum period for holding other real estate as an asset shall be five years, provided that upon application to the commissioner, the commissioner may approve the possession of such real estate by a bank for a period longer than five years, but not to exceed an additional five years, if:

- (1) the bank has made a good faith attempt to dispose of the real estate within the initial five-year period; or
- (2) disposal within the initial five-year period would be detrimental to the bank.

Subd. 2. **Real estate holdings not bank liabilities.** Real estate owned by a bank as a result of actions authorized in ~~clauses (2) to (5) of~~ subdivision 1, paragraph (a), clauses (2) to (5), and subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. **Real estate holdings not sold; authority to write off.** Notwithstanding any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to ~~clauses (2) to (5) of~~ subdivision 1, paragraph (a), clauses (2) to (5), is not sold or otherwise disposed of within the maximum period ~~established by rule by the commissioner,~~ the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

Sec. 6. Minnesota Statutes 2008, section 58.05, subdivision 3, is amended to read:

Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c), a financial institution under clause (2), or by order of the commissioner under clause (6); or under section 58.04, subdivision 2, paragraph (b), as a financial institution under clause ~~(3)~~ (4), or by order of the commissioner under clause ~~(7)~~ (8).

Sec. 7. Minnesota Statutes 2008, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) ~~An~~ A residential mortgage originator applicant must submit one of the following:

(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;

(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or

(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the ~~date dates~~ that mandatory testing, initial education ~~was~~, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;

(iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

(iv) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

(v) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000;

(vi) complies with federal and state tax laws; and

(vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 8. Minnesota Statutes 2008, section 58.126, is amended to read:

58.126 EDUCATION AND TESTING REQUIREMENT.

(a) No individual shall engage in residential mortgage origination or make residential mortgage loans, whether as an employee or independent contractor, before the completion of ~~45~~ 20 hours of educational training which has been approved by the commissioner, and covering state and federal laws concerning residential mortgage lending.

(b) In addition to the initial education requirements in paragraph (a), each individual must also complete eight hours of continuing education annually. The education must include:

(1) three hours of federal law and regulations;

(2) two hours of ethics, which must include fraud, consumer protection, and fair lending; and

(3) two hours of standards governing nontraditional mortgage lending.

(c) The commissioner may by rule establish testing requirements for individuals subject to the requirements of paragraphs (a) and (b). An individual must satisfy the testing requirements established by the commissioner before engaging in residential mortgage loan origination or making residential mortgage loans.

EFFECTIVE DATE. This section is effective September 1, 2009, and applies to license applications and renewals made on or after that date.

Sec. 9. Minnesota Statutes 2008, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:

(1) fail to maintain a trust account to hold trust funds received in connection with a residential mortgage loan;

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, clause (d);

- (4) fail to disburse funds according to its contractual or statutory obligations;
- (5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;
- (6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;
- (7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law;
- (8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208, and 47.58;
- (9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;
- (10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;
- (11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;
- (12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;
- (13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;
- (14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person may rely upon a written representation by the residential mortgage originator that it is in compliance with the licensing requirements of this chapter;
- (15) claim to represent a licensee or exempt person, unless the person is an employee of the licensee or exempt person or unless the person has entered into a written agency agreement with the licensee or exempt person;
- (16) fail to comply with the record keeping and notification requirements identified in section 58.14 or fail to abide by the affirmations made on the application for licensure;
- (17) represent that the licensee or exempt person is acting as the borrower's agent after providing the nonagency disclosure required by section 58.15, unless the disclosure is retracted and the licensee or exempt person complies with all of the requirements of section 58.16;
- (18) make, provide, or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or, if the originator does not utilize credit scoring or if a credit score is unavailable, then comparable underwriting data, indicates that the borrower may qualify for a residential mortgage loan, available from or through the originator, that is of a higher investment grade, unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest rate and/or lower discount points, and consents in writing to receipt of the lower investment grade loan;

For purposes of this section, "investment grade" refers to a system of categorizing residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or "subprime"; (ii) commonly designated by an alphabetical character with "A" being the highest investment grade; and (iii) are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or representation relating to the business of residential mortgage loans that is false, deceptive, or misleading;

(20) advertise loan types or terms that are not available from or through the licensee or exempt person on the date advertised, or on the date specified in the advertisement. For purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case;

(22) violate section 82.49, relating to table funding;

(23) make, provide, or arrange for a residential mortgage loan all or a portion of the proceeds of which are used to fully or partially pay off a "special mortgage" unless the borrower has obtained a written certification from an authorized independent loan counselor that the borrower has received counseling on the advisability of the loan transaction. For purposes of this section, "special mortgage" means a residential mortgage loan originated, subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit organization, that bears one or more of the following nonstandard payment terms which substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal or interest are not required or can be deferred under specified conditions; (iii) principal or interest is forgivable under specified conditions; or (iv) where no interest or an annual interest rate of two percent or less is charged in connection with the loan. For purposes of this section, "authorized independent loan counselor" means a nonprofit, third-party individual or organization providing homebuyer education programs, foreclosure prevention services, mortgage loan counseling, or credit counseling certified by the United States Department of Housing and Urban Development, the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks America;

(24) make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully indexed rate and a repayment schedule which achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan, including criteria established by the United States Department of Veterans Affairs or the United States Department of Housing and Urban Development for interest rate reduction refinancing loans or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; however, such other criteria must be verified through reasonably reliable methods and documentation. The mortgage originator's analysis of the borrower's reasonable ability to

repay may include, but is not limited to, consideration of the following items, if verified: (1) the borrower's current and expected income; (2) current and expected cash flow; (3) net worth and other financial resources other than the consumer's equity in the dwelling that secures the loan; (4) current financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7) employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax returns; (12) pension statements; and (13) employment payment records, provided that no mortgage originator shall disregard facts and circumstances that indicate that the financial or other information submitted by the consumer is inaccurate or incomplete. A statement by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources or sole reliance on any single item listed above is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay.

(25) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;

(26) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change from the amount previously disclosed. A residential mortgage originator need not make this disclosure concerning a refinancing loan if the residential mortgage originator knows that the borrower's existing loan that is anticipated to be refinanced does not have an escrow account; or

(27) make, provide, or arrange for a residential mortgage loan, other than a reverse mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance with any repayment option offered pursuant to the terms of the loan will result in negative amortization during any six-month period.

(b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage loan originated or purchased by a state agency or a tribal or local unit of government. This paragraph supersedes any inconsistent provision of this chapter.

Sec. 10. Minnesota Statutes 2008, section 60A.124, is amended to read:

60A.124 INDEPENDENT AUDIT.

The audit report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under section ~~60A.129~~ 60A.1291, subdivision ~~3 2~~, ~~paragraph (a)~~, should contain a statement as to whether anything, in connection with their audit, came to their attention that caused them to believe that the insurer failed to adopt and consistently apply the valuation procedure as required by sections 60A.122 and 60A.123.

Sec. 11. **[60A.1291] ANNUAL AUDIT.**

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

(a) "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed or is required to be licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

(b) "Audit committee" means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this section at the election of the controlling person under subdivision 15, paragraph (e). If an audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the audit committee.

(c) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(d) "Independent board member" has the same meaning as described in subdivision 15, paragraph (c).

(e) "Internal control over financial reporting" means a process effected by an entity's board of directors, management, and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and includes those policies and procedures that:

(1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that could have a material effect on the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c).

(f) "SEC" means the United States Securities and Exchange Commission.

(g) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated under it.

(h) "Section 404 report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in paragraph (a).

(i) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (section 10A(i) of the Securities Exchange Act of 1934); (ii) the audit committee independence requirements of Section 301 (section 10A(m)(3) of the Securities Exchange Act of 1934); and (iii) the internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Subd. 2. Filing requirements. Every insurance company doing business in this state, including fraternal benefit societies, reciprocal exchanges, service plan corporations licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter 62G, unless exempted by the commissioner pursuant to subdivision 9, paragraph (a), or by subdivision 18, shall have an annual audit of the financial activities of the most recently completed calendar year performed by an independent certified public accountant, and shall file the report of this audit with the commissioner on or before June 1 for the immediately preceding year ending December 31. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days before the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

If an extension is granted in accordance with this subdivision, a similar extension of 30 days is granted to the filing of management's report of internal control over financial reporting.

Every insurer required to file an annual audited financial report pursuant to this subdivision shall designate a group of individuals as constituting its audit committee. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this subdivision at the election of the controlling person.

Subd. 3. **Exemptions.** Foreign and alien insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from this section if a copy of the audited financial report, communication of internal control related matters noted in an audit, accountant's letter of qualifications, and report on significant deficiencies in internal controls, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in subdivision 2 (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in subdivision 11. Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified. This subdivision does not prohibit or in any way limit the commissioner from ordering, conducting, and performing examinations of insurers under the authority of this chapter.

Subd. 4. **Contents of annual audit; financial report.** (a) The annual audited financial report must report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year ended. The annual audited financial report must include:

- (1) a report of an independent certified public accountant;
- (2) a balance sheet reporting admitted assets, liabilities, capital, and surplus;
- (3) a statement of operations;
- (4) a statement of cash flows;
- (5) a statement of changes in capital and surplus; and
- (6) notes to the financial statements.

(b) The notes required under paragraph (a) are those required by the appropriate National Association of Insurance Commissioners (NAIC) annual statement instructions and National Association of Insurance Commissioners Accounting Practices and Procedures Manual and include reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under section 60A.13, subdivision 1, with a written description of the nature of these differences.

(c) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement must be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted. The amounts may be rounded to the nearest \$1,000, and all immaterial amounts may be combined.

Subd. 5. **Designation of independent certified public accountant.** Each insurer required by this section to file an annual audited financial report must notify the commissioner in writing of the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement. The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance regulatory authority of the state of domicile. The letter shall affirm that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying the exceptions believed to be appropriate. A copy of the accountant's letter shall be filed with the commissioner.

Subd. 6. **Report of disagreements.** If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall notify the commissioner of this event within five business days. Within ten business days of this notification, the insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused that person to make reference to the subject matter of the disagreement in connection with the opinion on the financial statements. The disagreements required to be reported in response to this subdivision include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subdivision are those disagreements between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for any disagreement. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

Subd. 7. **Qualifications of independent certified public accountant.** (a) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed or is required to be licensed to practice, or for a Canadian or British company, that is not a chartered accountant, or that has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as an indemnification agreement) with respect to the audit of the insurer. Except as otherwise provided, an independent certified public accountant must be recognized as qualified as long as the person conforms to the standards of the person's profession, as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Public Accountancy or similar code and the person is properly licensed in good standing with all required state boards of accountancy.

(b) The lead or coordinating audit partner, having primary responsibility for the audit, may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the commissioner for relief from this rotation requirement on the basis of unusual circumstances. This application must be made at least 30 days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(1) number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(2) premium volume of the insurer; or

(3) number of jurisdictions in which the insurer transacts business.

The insurer shall file, with its annual statement filing, the approval for relief from this paragraph with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(c) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(1) bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) financial information systems design and implementation;

(3) appraisal or valuation services, fairness opinions, or contribution in-kind reports;

(4) actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification on an insurer's reserves if the following conditions have been met:

(i) neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(ii) the insurer has competent personnel, or engages a third-party actuary, to estimate the loss reserves for which management takes responsibility; and

(iii) the accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the loss reserves;

(5) internal audit outsourcing services;

(6) management functions or human resources;

(7) broker or dealer, investment adviser, or investment banking services;

(8) legal services or expert services unrelated to the audit; and

(9) any other services that the commissioner determines, by rule, are impermissible.

(d) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any audited financial report, prepared in whole or in part by any natural person who has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, United States Code, title 18, sections 1961 to 1968, or any dishonest conduct or practices under federal or state law, has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section, or has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this section.

(e) The commissioner, after notice and hearing under chapter 14, may find that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this section.

Subd. 8. Exemptions to qualifications of certified public accountant. (a) Insurers having direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exemption from subdivision 7, paragraph (c). The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the commissioner finds, upon review of this statement, that compliance with this section would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(b) A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in subdivision 7, paragraph (c), only if the activity is approved in advance by the audit committee, in accordance with paragraph (c).

(c) All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer must be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(1) the aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(2) the services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(3) the services are promptly brought to the attention of the audit committee and approved before the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(d) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by paragraph (c). The decisions of any member to whom this authority is delegated must be presented to the full audit committee at each of its scheduled meetings.

(e) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This paragraph applies only to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from this paragraph on the basis of unusual circumstances.

(f) The insurer shall file, with its annual statement filing, the approval for relief with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Subd. 9. Consolidated or combined audits. (a) The commissioner may allow an insurer to file consolidated or combined audited financial statements required by subdivision 2, in lieu of separate annual audited financial statements, where it can be demonstrated that an insurer is part of a group of insurance companies that has a pooling or 100 percent reinsurance agreement which substantially affects the solvency and integrity of the reserves of the

insurer and the insurer cedes all of its direct and assumed business to the pool. An affiliated insurance company not meeting these requirements may be included in the consolidated or combined audited financial statements, if the company's total admitted assets are less than five percent of the consolidated group's total admitted assets. If these circumstances exist, then the company may file a written application to file consolidated or combined audited financial statements. This application must be for a specified period.

(b) Upon written application by a domestic insurer, the commissioner may authorize the domestic insurer to include additional affiliated insurance companies in the consolidated or combined audited financial statements. A foreign insurer must obtain the prior written authorization of the commissioner of its state of domicile in order to submit an application for authority to file consolidated or combined audited financial statements. This application must be for a specified period.

(c) A consolidated annual audit filing must include a columnar consolidated or combining worksheet. Amounts shown on the audited consolidated or combined financial statement must be shown on the worksheet. Amounts for each insurer must be stated separately. Noninsurance operations may be shown on the worksheet on a combined or individual basis. Explanations of consolidating or eliminating entries must be shown on the worksheet. A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers must be included on the worksheet.

Subd. 10. Scope of audit and report of independent certified public accountant. Financial statements furnished pursuant to subdivision 4 must be examined by an independent certified public accountant. The audit of the insurer's financial statements must be conducted in accordance with generally accepted auditing standards. In accordance with AICPA Statement on Auditing Standards (SAS) No. 109, Understanding the Entity and its Environment and Assessing the Risks of Material Misstatement, or its replacement, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by SAS No. 109, for those insurers required to file a management's report of internal control over financial reporting pursuant to subdivision 17, the independent certified public accountant should consider (as that term is defined in SAS No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should be given to other procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Subd. 11. Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to provide written notice within five business days to the board of directors of the insurer or its audit committee of any determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of sections 60A.07, 66A.32, and 66A.33 as of that date. An insurer required to file an annual audited financial report who received a notification of adverse financial condition from the accountant shall file a copy of the notification with the commissioner within five business days of the receipt of the notification. The insurer shall provide the independent certified public accountant making the notification with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive the evidence within the required five-day period, the independent certified public accountant shall furnish to the commissioner a copy of the notification to the board of directors or its audit committee within the next five business days. No independent certified public accountant is liable in any manner to any person for any statement made in connection with this subdivision if the statement is made in good faith in compliance with this subdivision. If the accountant becomes aware of facts which might have affected the audited financial report after the date it was filed, the accountant shall take the action prescribed by AU section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report of the Professional Standards issued by the American Institute of Certified Public Accountants, or its replacement.

Subd. 12. **Communication of internal control related matters noted in an audit.** In addition to the annual audited financial report, each insurer shall furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication must be prepared by the accountant within 60 days after the filing of the annual audited financial report, and must contain a description of any unremediated material weakness, as the term material weakness is defined by SAS No. 115, Communicating Internal Control Related Matters Identified in an Audit, or its replacement, as of December 31 immediately preceding so as to coincide with the audited financial report discussed in subdivision 2 in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

Subd. 13. **Accountant's letter of qualification.** The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that the accountant is independent with respect to the insurer and conforms to the standards of the accountant's profession as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Accountancy or similar code; the background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant; that the accountant understands that the annual audited financial report and the opinion on it will be filed in compliance with this statute and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers; that the accountant consents to the requirements of subdivision 14 and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the work papers, as defined in subdivision 14; a representation that the accountant is properly licensed in good standing by the appropriate state licensing authorities and is a member in good standing in the American Institute of Certified Public Accountants; and a representation that the accountant complies with subdivision 7. Nothing in this section prohibits the accountant from utilizing staff the accountant deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

Subd. 14. **Availability and maintenance of independent certified public accountants' work papers.** Work papers are the records kept by the independent certified public accountant of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the independent certified public accountant's audit of the financial statements of an insurer. Work papers may include audit planning documents, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the audit of the financial statements of an insurer and that support the accountant's opinion. Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the work papers prepared in the conduct of the audit and any communications related to the audit between the accountant and the insurer. The work papers must be made available at the offices of the insurer, at the offices of the commissioner, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than seven years after the period reported upon, provided retention of the working papers beyond the seven years is not required by other professional or regulatory requirements. In the conduct of the periodic review by the examiners, it must be agreed that photocopies of pertinent audit work papers may be made and retained by the commissioner. These copies shall be part of the commissioner's work papers and must be given the same confidentiality as other examination work papers generated by the commissioner.

Subd. 15. **Requirements for audit committee.** (a) The audit committee must be directly responsible for the appointment, compensation, and oversight of the work of any accountant including resolution of disagreements between management and the accountant regarding financial reporting for the purpose of preparing or issuing the audited financial report or related work pursuant to this section. Each accountant shall report directly to the audit committee.

(b) Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to paragraph (e) and subdivision 1, paragraph (b).

(c) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise nonindependent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(e) To exercise the election of the controlling person to designate the audit committee for purposes of this section, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification must be made timely before the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election remains in effect for perpetuity, until rescinded.

(f) The audit committee shall require the accountant that performs for an insurer any audit required by this section to timely report to the audit committee in accordance with the requirements of SAS No. 114, The Auditor's Communication with Those Charged with Governance, or its replacement, including:

(1) all significant accounting policies and material permitted practices;

(2) all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(3) other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(g) If an insurer is a member of an insurance holding company system, the reports required by paragraph (f) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(h) The proportion of independent audit committee members shall meet or exceed the following criteria:

(1) for companies with prior calendar year direct written and assumed premiums \$0 to \$300,000,000, no minimum requirements;

(2) for companies with prior calendar year direct written and assumed premiums over \$300,000,000 to \$500,000,000, majority of members must be independent; and

(3) for companies with prior calendar year direct written and assumed premiums over \$500,000,000, 75 percent or more must be independent.

(i) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the commissioner for a waiver from the requirements of this subdivision based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this subdivision with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

This subdivision does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly-owned subsidiary of a SOX compliant entity.

Subd. 16. Conduct of insurer in connection with the preparation of required reports and documents. (a) No director or officer of an insurer shall, directly or indirectly:

(1) make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, or communication required under this section; or

(2) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review, or communication required under this section.

(b) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this section if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(c) For purposes of paragraph (b), actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead, or fraudulently influence an accountant:

(1) to issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards;

(2) not to perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(3) not to withdraw an issued report; or

(4) not to communicate matters to an insurer's audit committee.

Subd. 17. Management's report of internal control over financial reporting. (a) Every insurer required to file an audited financial report pursuant to this section that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more, shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in subdivision 1. The report must be filed with the commissioner along with the communication of internal control related matters noted in an audit described under subdivision 12. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(b) Notwithstanding the premium threshold in paragraph (a), the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition pursuant to sections 60G.20 to 60G.22.

(c) An insurer or a group of insurers that is:

(1) directly subject to Section 404;

(2) part of a holding company system whose parent is directly subject to Section 404;

(3) not directly subject to Section 404 but is a SOX compliant entity; or

(4) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity;

may file its or its parent's Section 404 report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file (i) a report under this subdivision, or (ii) the Section 404 report and a report under this subdivision for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

(d) Management's report of internal control over financial reporting shall include:

(1) a statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) a statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) a statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) a statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) a statement regarding the inherent limitations of internal control systems; and

(7) signatures of the chief executive officer and the chief financial officer or equivalent position or title.

(e) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in paragraph (d), are made. Management may base its assertions, in part, upon its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

(1) Management has discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(2) Management's report on internal control over financial reporting, required by paragraph (a), and any documentation provided in support of the report during the course of a financial condition examination, must be kept confidential by the Department of Commerce.

Subd. 18. **Exemptions.** (a) Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of this section. In order to receive an exemption, an insurer must demonstrate to the satisfaction of the commissioner that compliance would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from the denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing must be held in accordance with chapter 14. Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. An exemption may not be granted until the insurer presents an alternative method satisfying the purposes of this section. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing must be held in accordance with chapter 14.

(b) This section applies to all insurers, unless otherwise indicated, required to file an annual audit by subdivision 2, except insurers having less than \$1,000,000 of direct written premiums in this state in any calendar year and fewer than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of the calendar year, are exempt from this section for that year, unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities, except that insurers having assumed premiums from reinsurance contracts or treaties of \$1,000,000 or more are not exempt.

Subd. 19. **Canadian and British companies.** (a) In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

(b) For these insurers the letter required in subdivision 5 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under subdivision 2, and shall affirm that the opinion expressed is in conformity with those requirements.

Subd. 20. **Commercial mortgage loan valuation procedures.** A report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under subdivision 2, shall be filed and contain a statement as to whether anything in connection with the audit came to the accountant's attention that caused the accountant to believe that the insurer failed to adopt and consistently apply the valuation procedures as required by sections 60A.122 and 60A.123.

Subd. 21. **Examinations.** (a) The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this section conducted by examiners under section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioners, Insurance Regulatory Information Systems, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this section must be compliance examinations, targeted examinations, and comprehensive examinations.

(b) Compliance examinations will consist of a review of the accountant's workpapers defined under this section and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the Department of Commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(c) Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

(d) Comprehensive examinations will be performed when the report of the accountant as provided for in subdivision 7, paragraph (b), the notification required by subdivision 7, paragraph (c), the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

(e) Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to the examination.

Subd. 22. **Penalties.** An annual statement, report, or document related to the business of insurance must not be filed with the commissioner or issued to the public if it is signed by anyone who is represented in the instrument as an "accountant," unless the person is qualified as defined by this section. A violation of this subdivision is a violation of section 72A.19 and punishable in accordance with section 72A.25.

EFFECTIVE DATE. (a) Domestic insurers retaining a certified public accountant on the effective date of this section who qualify as independent shall comply with this section for the year ending December 31, 2010, and each year thereafter unless the commissioner permits otherwise.

(b) Domestic insurers not retaining a certified public accountant on the effective date of this section who qualifies as independent shall meet the following schedule for compliance unless the commissioner permits otherwise.

(1) As of December 31, 2010, file with the commissioner an audited financial report.

(2) For the year ending December 31, 2010, and each year thereafter, such insurers shall file with the commissioner all reports and communication required by this section.

(c) Foreign insurers shall comply with this section for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.

(d) The requirements of subdivision 7, paragraph (b), are in effect for audits of the year beginning January 1, 2010, and thereafter.

(e) The requirements of subdivision 15 are in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium has one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination has one calendar year following the date of acquisition or combination to comply with the independence requirements.

(f) An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements has two years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. Likewise, an insurer acquired in a business combination has two calendar years following the date of acquisition or combination to comply with the reporting requirements.

(g) The requirements and provisions contained in this section are effective January 1, 2010, and thereafter.

Sec. 12. Minnesota Statutes 2008, section 60B.03, subdivision 15, is amended to read:

Subd. 15. **Insolvency.** "Insolvency" means:

(a) For an insurer organized under sections 67A.01 to 67A.26, the inability to pay any uncontested debt as it becomes due ~~or any other loss within 30 days after the due date specified in the first assessment notice issued pursuant to section 67A.17.~~

(b) For any other insurer, that it is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of (1) any capital and surplus required by law to be constantly maintained, or (2) its authorized and issued capital stock. For purposes of this subdivision, "assets" includes one-half of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were 100 percent collection of an assessment at the rate of ten mills per dollar of insurance written by it and in force.

Sec. 13. Minnesota Statutes 2008, section 60L.02, subdivision 3, is amended to read:

Subd. 3. **Additional requirements.** (a) In order to be eligible to be governed by sections 60L.01 to 60L.15, the insurer must meet the requirements specified under this subdivision.

(b) The insurer shall:

(1) have been in continuous operation for a minimum of five years; and

(2) maintain a minimum claims-paying, financial strength, or equivalent rating from at least one nationally recognized statistical rating organization in one of the organization's three highest rating categories for the time period during which sections 60L.01 to 60L.15 apply to the insurer. For purposes of this subdivision, the rating must be based on a review of the insurer by the nationally recognized statistical rating organization with the cooperation of the insurer; must not depend on a guarantee or other credit enhancement from another entity; and must not be modified or otherwise qualified to show dependence of the rating on the performance or a contractual obligation of, or the insurer's affiliation with, another insurer.

(c) The insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer shall employ at least one individual as a professional investment manager for the insurer's investments whom the board of directors or trustees of the insurer finds is qualified on the basis of experience, education or training, competence, personal integrity, and who conducts professional investment management activities in accordance with the Code of Ethics and Standards of Professional Conduct of the Association for Investment Management and Research. For purposes of complying with this paragraph, an employee of an affiliate may only be used if they are responsible for managing the insurer's investments.

(d) The board of directors of the insurer must annually adopt a resolution finding that the insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer has employed a professional investment manager for the insurer's investments with sufficient expertise and has sufficient other resources to implement and monitor the insurer's investment policies and strategies.

(e) In the report required under section ~~60A.129~~ 60A.1291, subdivision ~~3 12~~, ~~paragraph (1)~~, the insurer's independent auditor shall not have identified any significant deficiencies in the insurer's internal control structure related to investments during any of the five years immediately preceding the date on which sections 60L.01 to 60L.15 begin to apply to the insurer, and as long as sections 60L.01 to 60L.15 apply to the insurer.

Sec. 14. **[61A.258] PRENEED INSURANCE PRODUCTS; MINIMUM MORTALITY STANDARDS FOR RESERVES AND NONFORFEITURE VALUES.**

Subdivision 1. Definitions. For the purposes of this section, the following terms have the meanings given them:

(1) "2001 CSO Mortality Table (2001 CSO)" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table (2001 CSO) is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table (2001 CSO)" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables;

(2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983; and

(3) "preneed insurance" is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

Subd. 2. Minimum valuation mortality standards. For preneed insurance contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

Subd. 3. Minimum valuation interest rate standards. (a) The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in section 61A.25.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in section 61A.24.

Subd. 4. **Minimum valuation method standards.** (a) The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in section 61A.25.

(b) The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in section 61A.24.

EFFECTIVE DATE; TRANSITION RULES. (a) This section is effective January 1, 2009, and applies to preneed insurance policies and certificates issued on or after that date.

(b) For preneed insurance policies issued on or after the effective date of this section and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

(c) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this section and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

(1) a complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

(2) a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

(3) supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this section and using the 2001 CSO as a minimum standard for reserves.

(d) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

Sec. 15. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

Subd. 4. **Limitation of benefits.** The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (5), with respect to any one life, regardless of the number of policies or contracts:

(i) ~~\$300,000~~ \$500,000 in life insurance death benefits, but not more than ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

(iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement annuities or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid, on or before the date of impairment or insolvency; or

(3) subject to the limitations in clauses (5) and (6), with respect to each individual resident participating in a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values;

(4) where no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value;

(5) in no event shall the association be liable to expend more than ~~\$300,000~~ \$500,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii), (iv), and clause (4), and any one individual under clause (3);

(6) in no event shall the association be liable to expend more than ~~\$7,500,000~~ \$10,000,000 with respect to all unallocated annuities of a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992. If total claims from a plan exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among the claimants;

(7) for purposes of applying clause (2)(ii) and clause (5), with respect only to health insurance benefits, the term "any one life" applies to each individual covered by a health insurance policy;

(8) where covered contractual obligations are equal to or less than the limits stated in this subdivision, the association will pay the difference between the covered contractual obligations and the amount credited by the estate of the insolvent or impaired insurer, if that amount has been determined or, if it has not, the covered contractual limit, subject to the association's right of subrogation;

(9) where covered contractual obligations exceed the limits stated in this subdivision, the amount payable by the association will be determined as though the covered contractual obligations were equal to those limits. In making the determination, the estate shall be deemed to have credited the covered person the same amount as the estate would credit a covered person with contractual obligations equal to those limits; or

(10) the following illustrates how the principles stated in clauses (8) and (9) apply. The example illustrated concerns hypothetical claims subject to the limit stated in clause (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply to claims subject to any limits stated in this subdivision.

CONTRACTUAL OBLIGATIONS OF:

	\$50,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$50,000
25% recovery from estate	\$12,500	\$37,500
50% recovery from estate	\$25,000	\$25,000
75% recovery from estate	\$37,500	\$12,500

	\$100,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$25,000	\$75,000
50% recovery from estate	\$50,000	\$50,000
75% recovery from estate	\$75,000	\$25,000
	\$200,000	
	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$50,000	\$75,000
50% recovery from estate	\$100,000	\$50,000
75% recovery from estate	\$150,000	\$25,000

For purposes of this subdivision, the commissioner shall determine the discount rate to be used in determining the present value of annuity benefits.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to member insurers who are first determined to be impaired or insolvent on or after that date. Member insurers who are subject to an order of impairment in effect on the effective date but are not declared insolvent until after the effective date shall continue to be governed by the law in effect prior to the effective date.

Sec. 16. Minnesota Statutes 2008, section 61B.28, subdivision 4, is amended to read:

Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision nor is it a violation of this subdivision to explain verbally to an applicant or potential applicant the coverage provided by the Minnesota Life and Health Insurance Guaranty Association at any time during the application process or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. ~~A person violating this section is guilty of a misdemeanor.~~

Sec. 17. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a), is as follows:

".....
.....
.....

(insert name, current address, and telephone number of insurer)

NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH
INSURANCE GUARANTY ASSOCIATION LAW

If the insurer that issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer.

In addition, residents of Minnesota who purchase life insurance, annuities, or health insurance from insurance companies authorized to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

Minnesota Life and Health Insurance Guaranty Association

(insert current address and telephone number)

The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to ~~\$300,000~~ \$500,000. Subject to this ~~\$300,000~~ \$500,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$500,000 in life insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance, ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of annuity benefits for annuities which are part of a structured settlement or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid on or before the date of impairment or insolvency, or if no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value. Unallocated annuity contracts issued to retirement plans, other than defined benefit plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values, for Minnesota residents covered by the plan provided, however, that the association shall not be responsible for more than ~~\$7,500,000~~ \$10,000,000 in claims from all Minnesota residents covered by the plan. If total claims exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among all claimants. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.

THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.

THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE THIS NOTICE."

Additional language may be added to the notice if approved by the commissioner prior to its use in the form. This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 18. Minnesota Statutes 2008, section 67A.01, is amended to read:

67A.01 NUMBER OF MEMBERS REQUIRED, PROPERTY AND TERRITORY.

Subdivision 1. **Number of members.** ~~(a)~~ It shall be lawful for any number of persons, not less than 25, residing in adjoining ~~townships~~ counties in this state, who shall collectively own property worth at least \$50,000, to form themselves into a corporation for mutual insurance against loss or damage by the perils listed in section 67A.13.

~~(b) Except as otherwise provided in this section, the company shall operate in no more than 150 adjoining townships in the aggregate at the same time. The company may, if approval has been granted by the commissioner, operate in more than 150 adjoining townships in the aggregate at the same time, subject to a maximum of 300 townships. If the company confines its operations to one county it may transact business in that county by so providing in its certificate of incorporation. In case of merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies, but the territory of the surviving company in the merger must not be larger than 300 townships.~~

Subd. 2. **Authorized territory.** (a) A township mutual fire insurance company may be authorized to write business in up to nine adjoining counties in the aggregate at the same time. If policyholder surplus is at least \$500,000 as reported in the company's last annual financial statement filed with the commissioner, the company may, if approval has been granted by the commissioner, be authorized to write business in ten or more counties in the aggregate at the same time, subject to a maximum of 20 adjoining counties, in accordance with the following schedule:

<u>Number of Counties</u>	<u>Surplus Requirement</u>
<u>10</u>	<u>\$500,000</u>
<u>11</u>	<u>600,000</u>
<u>12</u>	<u>700,000</u>
<u>13</u>	<u>800,000</u>
<u>14</u>	<u>900,000</u>
<u>15</u>	<u>1,000,000</u>
<u>16</u>	<u>1,100,000</u>
<u>17</u>	<u>1,200,000</u>
<u>18</u>	<u>1,300,000</u>
<u>19</u>	<u>1,400,000</u>
<u>20</u>	<u>1,500,000</u>

(b) In the case of a merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies; however, the territory of the surviving company in the merger may not be larger than 20 counties.

(c) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory having a population less than 25,000. A township mutual may continue to write new and renewal insurance once the population increases to 25,000 or greater provided that amended and restated articles are filed with the commissioner along with a certification that such city's population has increased to 25,000 or greater.

(d) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, if approval has been granted by the commissioner. No township mutual fire insurance company shall insure any property in cities with a population of 150,000 or greater.

(e) If a township mutual fire insurance company provides evidence to the commissioner that the company had insurance in force on December 31, 2007, in a city within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, the company may write new and renewal insurance on property in that city provided that the company files amended and restated articles by July 31, 2010, naming that city.

Sec. 19. Minnesota Statutes 2008, section 67A.06, is amended to read:

67A.06 POWERS OF CORPORATION.

Every corporation formed under the provisions of sections 67A.01 to 67A.26, shall have power:

(1) to have succession by its corporate name for the time stated in its certificate of incorporation;

(2) to sue and be sued in any court;

(3) to have and use a common seal and alter the same at pleasure;

(4) to acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purpose of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation;

(5) to elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, fix their compensation, and define their powers and duties;

(6) to make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs;

(7) to wind up and liquidate its business in the manner provided by chapter 60B; ~~and~~

(8) to indemnify certain persons against expenses and liabilities as provided in section 302A.521. In applying section 302A.521 for this purpose, the term "members" shall be substituted for the terms "shareholders" and "stockholders-"; and

(9) to eliminate or limit a director's personal liability to the company or its members for monetary damages for breach of fiduciary duty as a director. A company shall not eliminate or limit the liability of a director:

(i) for breach of loyalty to the company or its members;

(ii) for acts or omissions made in bad faith or with intentional misconduct or knowing violation of law;

(iii) for transactions from which the director derived an improper personal benefit; or

(iv) for acts or omissions occurring before the date that the provisions in the articles eliminating or limiting liability become effective.

Sec. 20. Minnesota Statutes 2008, section 67A.07, is amended to read:

67A.07 PRINCIPAL OFFICE.

The principal office of a township mutual fire insurance company shall be located in a ~~township or in a city in a township~~ county in which the company is authorized to do business.

Sec. 21. Minnesota Statutes 2008, section 67A.14, subdivision 1, is amended to read:

Subdivision 1. **Kinds of property; property outside authorized territory.** (a) Township mutual fire insurance companies may insure qualified property. Qualified property means dwellings, household goods, appurtenant structures, farm buildings, farm personal property, churches, church personal property, county fair buildings, community and township meeting halls and their usual contents.

(b) Township mutual fire insurance companies may extend coverage to include an insured's secondary property if the township mutual fire insurance company covers qualified property belonging to the insured. Secondary property means any real or personal property that is not considered qualified property for a township mutual fire insurance company to cover under this chapter. The maximum amount of coverage that a township mutual fire insurance company may write for secondary property is 25 percent of the total limit of liability of the policy issued to an insured covering the qualified property.

(c) A township mutual fire insurance company may insure any real or personal property, including qualified or secondary property, subject to the limitations in subdivision 1, paragraph (b), located outside the limits of the territory in which the company is authorized by its certificate or articles of incorporation to transact business, if the company is already covering qualified property belonging to the insured, inside the limits of the company's territory.

(d) A township mutual fire insurance company may insure property temporarily outside of the authorized territory of the township mutual fire insurance company.

Sec. 22. Minnesota Statutes 2008, section 67A.14, subdivision 7, is amended to read:

Subd. 7. **Amount of insurable risk.** No township mutual fire insurance company shall insure or reinsure a single risk or hazard in a larger sum than the greater of \$3,000, or one tenth of its net assets plus two tenths of a mill of its insurance in force; provided that no portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this subdivision.

Sec. 23. **[67A.175] SURPLUS REQUIREMENTS.**

Subdivision 1. **Minimum.** Township mutual fire insurance companies shall maintain a minimum policyholders' surplus of \$300,000 at all times.

Subd. 2. **Corrective action plan; filing.** A township mutual fire insurance company that falls below the \$300,000 minimum surplus requirement must file a corrective action plan with the commissioner. The plan shall state how the company will correct its surplus deficiency. The plan must be submitted within 45 days of the company falling below the minimum surplus level.

Subd. 3. **Corrective action plan; commissioner's notification.** Within 30 days after the submission by a township mutual fire insurance company of a corrective action plan, the commissioner shall notify the insurer whether the plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the plan is unsatisfactory, the notification to the company must set forth the reasons for the determination, and may set forth proposed revisions that will render the plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised corrective action plan that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised plan to the commissioner within 45 days.

Sec. 24. Minnesota Statutes 2008, section 67A.18, subdivision 1, is amended to read:

Subdivision 1. **By member.** Any member may terminate membership in the company by giving written notice or returning the member's policy to the secretary ~~and paying the withdrawing member's share of all existing claims.~~

Sec. 25. **REPEALER.**

Subdivision 1. **Annual audits.** Minnesota Statutes 2008, section 60A.129, is repealed.

Subd. 2. **Township mutual insured properties, joint or partial risks, and assessments.** Minnesota Statutes 2008, sections 67A.14, subdivision 5; 67A.17; and 67A.19, are repealed.

Subd. 3. **Banking procedures; real estate tax records.** Minnesota Rules, part 2675.2180, is repealed.

Subd. 4. **Debt prorating companies.** Minnesota Rules, parts 2675.7100; 2675.7110; 2675.7120; 2675.7130; and 2675.7140, are repealed.

Subd. 5. **Guaranty association; inflation indexing.** Minnesota Statutes 2008, section 61B.19, subdivision 6, is repealed.

ARTICLE 4

DEBT MANAGEMENT SERVICES

Section 1. Minnesota Statutes 2008, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 332B, 345, and 359, and sections 325D.30 to 325D.42, 326B.802 to 326B.885, and 386.61 to 386.78, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2008, section 46.04, subdivision 1, is amended to read:

Subdivision 1. **General.** The commissioner of commerce, referred to in chapters 46 to 59A, ~~and chapter 332A, and 332B~~ as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, chapter 201, were conferred by law upon the public examiner, and shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of commerce shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once every 24 calendar months. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and licensed regulated lenders, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and rules. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of the commissioner's duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs

and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to official duties, the commissioner of commerce has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of commerce as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of duties.

Sec. 3. Minnesota Statutes 2008, section 46.05, is amended to read:

46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.

Every state bank, savings bank, trust company, savings association, debt management services provider, debt settlement services provider, and other financial institutions shall be at all times under the supervision and subject to the control of the commissioner of commerce. If, and whenever in the performance of duties, the commissioner finds it necessary to make a special investigation of any financial institution under the commissioner's supervision, and other than a complete examination, the commissioner shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on the commissioner's making a request for payment.

Sec. 4. Minnesota Statutes 2008, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, debt management services provider, debt settlement services provider, and insurance premium finance company organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce.

Sec. 5. Minnesota Statutes 2008, section 325E.311, subdivision 6, is amended to read:

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

- (1) to any residential subscriber with that subscriber's prior express invitation or permission; or
- (2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

- (i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law, unless the organization is a debt management services provider defined in section 332A.02 or a debt settlement services provider defined in section 332B.02;

(ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or

(iii) by a political party as defined under section 200.02, subdivision 6.

Sec. 6. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision to read:

Subd. 2a. **Advertise.** "Advertise" means to solicit business through any means or medium.

Sec. 7. Minnesota Statutes 2008, section 332A.02, subdivision 5, is amended to read:

Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly ~~controlling, controlled by, or is~~ under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Sec. 8. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision to read:

Subd. 5a. **Creditor.** "Creditor" means any party:

(1) named by the debtor as a creditor in the debt management services plan or debt management services agreement;

(2) that acquires or holds the debt; or

(3) to whom interactions with the debt management services is assigned in relation to the debt listed in the debt management services plan or debt management services agreement.

Sec. 9. Minnesota Statutes 2008, section 332A.02, subdivision 8, is amended to read:

Subd. 8. **Debt management services provider.** "Debt management services provider" means any person offering or providing debt management services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. This term includes any person to whom debt management services are delegated, and does not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) state or national banks, credit unions, trust companies, savings associations, title insurance companies, insurance companies, and all other lending institutions duly authorized to transact business in Minnesota, ~~provided no fee is charged for the service;~~

(3) persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt management, perform credit services for their employer;

(4) public officers acting in their official capacities and persons acting as a debt management services provider pursuant to court order;

(5) any person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(6) the state, its political subdivisions, public agencies, and their employees;

(7) ~~credit unions and~~ collection agencies, provided ~~no fee is charged for the service~~ that the services are provided to a creditor;

(8) "qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income Representative Payee System and the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;

(9) accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (8); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder;

(10) trustees, guardians, and conservators; and

(11) debt settlement services providers.

Sec. 10. Minnesota Statutes 2008, section 332A.02, subdivision 9, is amended to read:

Subd. 9. **Debt management services.** "Debt management services" means the provision of any ~~one or more of the following services in connection with debt incurred primarily for personal, family, or household services:~~

~~(1) managing the financial affairs of an individual by distributing income or money to the individual's creditors;~~

~~(2) receiving funds for the purpose of distributing the funds among creditors in payment or partial payment of obligations of a debtor; or~~

~~(3) adjusting, prorating, pooling, or liquidating the indebtedness of a debtor whereby a debt management services provider assists in managing the financial affairs of a debtor by distributing periodic payments to the debtor's creditors from funds that the debt management services provider receives from the debtor and where the primary purpose of the services is to effect full repayment of debt incurred primarily for personal, family, or household services.~~

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt management services regardless of whether or not a fee is charged for such services.

Sec. 11. Minnesota Statutes 2008, section 332A.02, subdivision 10, is amended to read:

Subd. 10. **Debtor.** "Debtor" means the person for whom the debt ~~prorating service is~~ management services are performed.

Sec. 12. Minnesota Statutes 2008, section 332A.02, subdivision 13, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" ~~means any person engaging in or holding out as engaging in the business of negotiating, adjusting, or settling debt incurred primarily for personal, family, or household purposes without holding or receiving the debtor's funds or personal property and without paying the debtor's funds to, or distributing the debtor's property among, creditors has the meaning given in section 332B.02, subdivision 11. The term shall not include persons listed in subdivision 8, clauses (1) to (10).~~

Sec. 13. Minnesota Statutes 2008, section 332A.04, subdivision 6, is amended to read:

Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor or distribute to the debtor's creditors the amounts required by this chapter ~~and, or has failed to perform any of the services promised in the debt management services agreement between the debtor and registrant,~~ the registrant is in default. The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Sec. 14. Minnesota Statutes 2008, section 332A.08, is amended to read:

332A.08 DENIAL OF REGISTRATION.

The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration upon finding that the applicant:

(1) has submitted an application required under section 332A.04 that contains incorrect, misleading, incomplete, or materially untrue information. An application is incomplete if it does not include all the information required in section 332A.04;

(2) has failed to pay any fee or pay or maintain any bond required by this chapter, or failed to comply with any order, decision, or finding of the commissioner made under and within the authority of this chapter;

(3) has violated any provision of this chapter or any rule or direction lawfully made by the commissioner under and within the authority of this chapter;

(4) or any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt management services or any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(5) has had a registration or license previously revoked or suspended in this state or any other state or the applicant or licensee has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business; or any controlling or affiliated party has been an officer, director, manager, or shareholder owning more than a ten percent interest in a debt management services provider whose registration has previously been revoked or suspended in this state or any other state, or who has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business;

(6) has made any false statement or representation to the commissioner;

(7) is insolvent;

(8) refuses to fully comply with an investigation or examination of the debt management services provider by the commissioner;

(9) has improperly withheld, misappropriated, or converted any money or properties received in the course of doing business;

(10) has failed to have a trust account with an actual cash balance equal to or greater than the sum of the escrow balances of each debtor's account;

(11) has defaulted in making payments to creditors on behalf of debtors as required by agreements between the provider and debtor; ~~or~~

(12) has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; or

(13) has been shown to have engaged in a pattern of failing to perform the services promised.

Sec. 15. Minnesota Statutes 2008, section 332A.10, is amended to read:

332A.10 WRITTEN DEBT MANAGEMENT SERVICES AGREEMENT.

Subdivision 1. **Written agreement required.** (a) A debt management services provider may not perform any debt management services or receive any money related to a debt management services plan until the provider has obtained a debt management services agreement that contains all terms of the agreement between the debt management services provider and the debtor.

(b) A debt management services agreement must:

(1) be in writing, dated, and signed by the debt management services provider and the debtor;

(2) conspicuously indicate whether or not the debt management services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt management services provider advertised in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to written agreement.** No person may provide debt management services for a debtor or execute a debt management services agreement unless the person first has:

(1) provided the debtor individualized counseling and educational information that, at a minimum, addresses managing household finances, managing credit and debt, budgeting, and personal savings strategies;

(2) prepared in writing and provided to the debtor, in a form that the debtor may keep, an individualized financial analysis and a proposed debt management services plan listing the debtor's known debts with specific recommendations regarding actions the debtor should take to reduce or eliminate the amount of the debts, including written disclosure that debt management services are not suitable for all debtors and that there are other ways, including bankruptcy, to deal with indebtedness;

(3) made a determination supported by an individualized financial analysis that the debtor can reasonably meet the requirements of the proposed debt management services plan and that there is a net tangible benefit to the debtor of entering into the proposed debt management services plan; ~~and~~

(4) prepared, in a form the debtor may keep, a written list identifying all known creditors of the debtor that the provider reasonably expects to participate in the plan and the creditors, including secured creditors, that the provider reasonably expects not to participate; and

(5) disclosed, in addition to the written disclosure on the agreement required under subdivision 1, whether or not the debt management services provider is registered with the Minnesota Department of Commerce and any registration number.

Subd. 3. **Required terms.** (a) Each debt management services agreement must contain the following terms, which must be disclosed prominently and clearly in bold print on the front page of the agreement, segregated by bold lines from all other information on the page:

(1) the origination fee amount to be paid by the debtor and whether all or a portion of the ~~initial~~ origination fee amount is refundable or nonrefundable;

(2) the monthly fee amount or percentage to be paid by the debtor; and

(3) the total amount of fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt management services agreement must also contain the following:

(1) a disclosure that if the amount of debt owed is increased by interest, late fees, over the limit fees, and other amounts imposed by the creditors, the length of the debt management services agreement will be extended and remain in force and that the total dollar charges agreed upon may increase at the rate agreed upon in the original contract agreement;

(2) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332A.11;

(3) a detailed description of all services to be performed by the debt management services provider for the debtor;

(4) the debt management services provider's refund policy; and

(5) the debt management services provider's principal business address and the name and address of its agent in this state authorized to receive service of process.

Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt management services agreement:

(1) a hold harmless clause;

(2) a confession of judgment, or a power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceeding;

(3) a waiver of the right to a jury trial, if applicable, in any action brought by or against a debtor;

(4) an assignment of or an order for payment of wages or other compensation for services;

(5) a provision in which the debtor agrees not to assert any claim or defense arising out of the debt management services agreement;

(6) a waiver of any provision of this chapter or a release of any obligation required to be performed on the part of the debt management services provider; or

(7) a mandatory arbitration clause or a clause selecting a law other than the laws of Minnesota under which the debt management services agreement or any other dispute involving the provision of debt management services is governed or enforced.

Subd. 5. **New debt management services agreements; modification of existing agreements.** (a) Separate and additional debt management services agreements that comply with this chapter may be entered into by the debt management services provider and the debtor provided that no additional ~~initial~~ origination fee may be charged by the debt management services provider.

(b) Any modification of an existing debt management services agreement, including any increase in the number or amount of debts included in the debt management ~~service~~ services agreement, must be in writing and signed by both parties, except that the signature of the debtor is not required if:

(1) a creditor is added to or deleted from a debt management services agreement at the request of the debtor or a debtor voluntarily increases the amount of a payment, provided the debt management services provider must provide an updated payment schedule to the debtor within seven days; or

(2) the payment amount to a creditor in the agreement increases by \$10 or less and the total payment amount to all creditors increases a total of \$20 or less as a result of incorrect or incomplete information provided by the debtor regarding the amount of debt owed a creditor, provided the debt management services provider must notify the debtor of the increase within seven days.

No fees, charges, or other consideration may be demanded from the debtor for the modification, other than an increase in the amount of the monthly maintenance fee established in the original debt management services agreement.

Sec. 16. Minnesota Statutes 2008, section 332A.11, subdivision 2, is amended to read:

Subd. 2. **Notice of debtor's right to cancel.** A debt management services agreement must contain, on its face, in an easily readable ~~typeface~~ type immediately adjacent to the space for signature by the debtor, the following notice: "Right To Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Sec. 17. Minnesota Statutes 2008, section 332A.14, is amended to read:

332A.14 PROHIBITIONS.

~~A registrant~~ No debt management services provider shall not:

(1) purchase from a creditor any obligation of a debtor;

(2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;

(3) advise, counsel, or encourage a debtor to stop paying a creditor ~~until a debt management services plan is in place, or imply, infer, encourage, or in any other way indicate, that it is advisable to stop paying a creditor;~~

(4) sanction or condone the act by a debtor of ceasing payments or imply, infer, or in any manner indicate that the act of ceasing payments is advisable or beneficial to the debtor;

~~(4)~~ (5) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;

~~(5)~~ (6) compromise any debts unless the prior written or contractual approval of the debtor has been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;

~~(6)~~ (7) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;

~~(7)~~ (8) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or debt management services provider;

~~(8)~~ (9) structure a debt management services agreement that would result in negative amortization of any debt in the plan;

~~(9)~~ (10) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;

~~(10)~~ (11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management services plan;

~~(11)~~ (12) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;

~~(12)~~ (13) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

~~(13)~~ (14) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

~~(14)~~ (15) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

~~(15)~~ (16) solicit, demand, collect, require, or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution to a debt management services provider or designee from the debtor.

Sec. 18. Minnesota Statutes 2008, section 332A.16, is amended to read:

332A.16 ADVERTISEMENT OF DEBT MANAGEMENT SERVICES PLANS.

No debt management services provider may make false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt management services plan or its debt management services, or create the likelihood of consumer confusion or misunderstanding regarding its services, including but not limited to the following:

(1) represent that the debt management services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt management services will be provided by a for-profit company that is a controlling or affiliated party to the debt management services provider; or

(2) make any communication that gives the impression that the debt management services provider is acting on behalf of a government agency.

Sec. 19. **[332B.02] DEFINITIONS.**

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Accreditation.** "Accreditation" means certification as an accredited credit counseling provider by the Council on Accreditation, the Bureau Veritas Certification North America, Inc., or BSI Management Systems America, Inc.

Subd. 3. **Advertise.** "Advertise" means to solicit business through any means or medium.

Subd. 4. **Aggregate debt.** "Aggregate debt" means the total of principal and interest that is owed by the debtor to the creditors at the time of execution of the debt settlement agreement.

Subd. 5. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 7. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly, or is under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Subd. 8. **Credit counseling.** "Credit counseling" means the provision of counseling and advice on managing household finances, including but not limited to, managing credit and debt, budgeting, and personal savings.

Subd. 9. **Creditor.** "Creditor" means any party:

(1) named by the debtor as a creditor in the debt settlement services plan or debt settlement services agreement;

(2) that acquires or holds the debt; or

(3) to whom interactions with the debt settlement services is assigned in relation to the debt listed in the debt settlement services plan or debt settlement services agreement.

Subd. 10. **Debt settlement services.** "Debt settlement services" means any one or more of the following activities:

(1) offering to provide advice, or offering to act or acting as an intermediary between a debtor and one or more of the debtor's creditors, where the primary purpose of the advice or action is to obtain a settlement for less than the full amount of debt, whether in principal, interest, fees, or other charges, incurred primarily for personal, family, or household purposes including, but not limited to, offering debt negotiation, debt reduction, or debt relief services; or

(2) advising, encouraging, assisting, or counseling a debtor to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the debtor's creditors.

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt settlement services, regardless of whether or not a fee is charged for such services.

Subd. 11. **Debt settlement services agreement.** "Debt settlement services agreement" means the written contract between the debt settlement services provider and the debtor.

Subd. 12. **Debt settlement services plan.** "Debt settlement services plan" means the debtor's individualized package of debt settlement services set forth in the debt settlement services agreement.

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom debt settlement duties are delegated. The term shall not include persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management services provider.

Subd. 14. **Lead generator.** "Lead generator" means a person that, without providing debt settlement services: (1) solicits debtors to engage in debt settlement through mail, in person, or electronic Web site-based solicitation or any other means, (2) acts as an intermediary or referral agent between a debtor and an entity actually providing debt settlement services, or (3) obtains a debtor's personally identifiable information and transmits that information to a debt settlement services provider.

Subd. 15. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Subd. 16. **Registrant.** "Registrant" means any person registered by the commissioner pursuant to this chapter and, where used in conjunction with an act or omission required or prohibited by this chapter, shall mean any person performing debt settlement services.

Sec. 20. **[332B.03] REQUIREMENT OF REGISTRATION.**

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a debt on or after August 1, 2009, without complying with this chapter.

Sec. 21. **[332B.04] REGISTRATION.**

Subdivision 1. **Form.** Application for registration to operate as a debt settlement services provider in this state must be made in writing to the commissioner, under oath, in the form prescribed by the commissioner, and must contain:

(1) the full name of each principal of the entity applying;

(2) the address, which must not be a post office box, and the telephone number and, if applicable, the e-mail address, of the applicant;

(3) consent to the jurisdiction of the courts of this state;

(4) the name and address of the registered agent authorized to accept service of process on behalf of the applicant or appointment of the commissioner as the applicant's agent for purposes of accepting service of process;

(5) disclosure of:

(i) whether any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt settlement services or involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(ii) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant or any officer, director, manager, or shareholder owning more than five percent interest in the applicant, unresolved or otherwise, filed or otherwise commenced within the preceding ten years;

(iii) whether the applicant or any person employed by the applicant has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings; and

(iv) whether the applicant's license or registration to provide debt settlement services in any other state has ever been revoked or suspended;

(6) a copy of the applicant's standard debt settlement services agreement that the applicant intends to execute with debtors;

(7) proof of accreditation, unless the applicant submits an affidavit attesting that the applicant does not provide credit counseling services; and

(8) any other information and material as the commissioner may require.

The commissioner may, for good cause shown, temporarily waive any requirement of this subdivision.

Subd. 2. **Term and scope of registration.** A registration is effective until 11:59 p.m. on December 31 of the year for which the application for registration is filed or until it is surrendered by the registrant or revoked or suspended by the commissioner. The registration is limited solely to the business of providing debt settlement services.

Subd. 3. **Fees; bond.** An applicant for registration as a debt settlement services provider must comply with the requirements of section 332A.04, subdivisions 3, 4, and 5.

Subd. 4. **Right of action on bond.** If the registrant has failed to account to a debtor, or has failed to perform any of the services promised, the registrant is in default. The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Subd. 5. **Registrant list.** The commissioner must maintain a list of registered debt settlement services providers. The list must be made available to the public in written form upon request and on the Department of Commerce Web site.

Subd. 6. **Renewal of registration.** Each year, each registrant under the provisions of this chapter must, not more than 60 nor less than 30 days before its registration is to expire, apply to the commissioner for renewal of its registration on a form prescribed by the commissioner. The application must be signed by the registrant under penalty of perjury, contain current information on all matters required in the original application, and be accompanied by a payment of \$250. The registrant must maintain a continuous surety bond that satisfies the requirements of section 332A.04, subdivision 4. The renewal is effective for one year. The commissioner may, for good cause shown, temporarily waive any requirement of this section.

Sec. 22. **[332B.05] DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF REGISTRATION.**

Subdivision 1. Denial. The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration for any of the reasons specified under section 332A.08.

Subd. 2. Suspension, revocation, or nonrenewal. The commissioner may suspend, revoke, or refuse to renew any registration issued under this chapter, or may levy a civil penalty under section 45.027, or any combination of actions, if the debt settlement services provider or any controlling or affiliated person has committed any act or omission for which the commissioner could have refused to issue an initial registration.

Subd. 3. Procedure. Suspension, revocation, or nonrenewal must be upon notice and under the conditions prescribed in section 332A.09, subdivision 1. Upon issuance of an order suspending, revoking, or refusing to renew a registration, the commissioner:

(1) shall follow the procedure established in section 332A.09, subdivision 2; and

(2) may follow the procedure specified in section 332A.09, subdivision 3, concerning the appointment of a receiver for funds of sanctioned registrants.

Sec. 23. **[332B.06] WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.**

Subdivision 1. Written agreement required. (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor and complies with all the applicable requirements of this chapter.

(b) A debt settlement services agreement must:

(1) be in writing, dated, and signed by the debt settlement services provider and the debtor;

(2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt settlement services provider advertises in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. Actions prior to executing a written agreement. No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

(1) informed the debtor, in writing, that debt settlement is not appropriate for all debtors and that there are other ways to deal with debt, including using credit counseling or debt management services, or filing bankruptcy;

(2) prepared in writing and provided to the debtor, in a form the debtor may keep, an individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:

(i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;

(ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and

(iii) based on the totality of the circumstances, there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan; and

(3) provided, on a document separate from any other document, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

Subd. 3. Determination concerning creditor participation. (a) Before executing a debt settlement services agreement or providing any services, a debt settlement services provider must make a determination, supported by sufficient bases, which creditors listed by the debtor are reasonably likely, and which are not reasonably likely, to participate in the debt settlement services plan set forth in the debt settlement services agreement.

(b) A debt settlement services provider has a defense against a claim that no sufficient basis existed to make a determination that a creditor was likely to participate if the debt settlement services provider can produce:

(1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settlement services provider were engaged in negotiations to settle a debt for another debtor; or

(2) evidence that the provider and the creditor had entered into a settlement of a debt within the six months prior to the date of the determination.

(c) The debt settlement services provider must notify the debtor as soon as practicable after the provider has made a determination of the likelihood of participation or nonparticipation of all the creditors listed for inclusion in the debt settlement services agreement or debt settlement services plan. If not all creditors listed in the debt settlement services agreement are reasonably likely to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the likely participation of all listed creditors.

Subd. 4. Disclosures. (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

CAUTION

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

If you stop paying your creditors, there is a strong likelihood some or all of the following may happen:

- YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.
- YOU MAY STILL BE CONTACTED BY CREDITORS.
- YOU MAY STILL BE SUED BY CREDITORS for the money you owe.
- FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected.

(c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosures and notices required under this subdivision must be provided in the debtor's primary language if the debt settlement services provider advertises in that language.

Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain on the front page of the agreement, segregated by bold lines from all other information on the page and disclosed prominently and clearly in bold print, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 7. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose of writing exchange checks for no longer than 42 days. If the registrant holds debtor funds, the registrant must maintain a separate trust account, except that the registrant may commingle debtor funds with the registrant's own funds, in the form of an imprest fund, to the extent necessary to ensure maintenance of a minimum balance, if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance.

Sec. 24. **[332B.07] RIGHT TO CANCEL.**

Subdivision 1. **Debtor's right to cancel.** (a) A debtor has the right to cancel a debt settlement services agreement without cause at any time upon ten days' written notice to the debt settlement services provider.

(b) In the event of cancellation, the debt settlement services provider must, within ten days of the cancellation, notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement agreement, in communication, of the cancellation and immediately refund all fees paid by the debtor to the debt settlement services provider that exceed the fees allowed under section 332B.09.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

Subd. 2. **Notice of debtor's right to cancel.** A debt settlement services agreement must contain, on its face, in an easily readable type immediately adjacent to the space for signature by the debtor, the following notice: "Right to Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Subd. 3. **Automatic termination.** Upon the payment of all listed or settled debts and fees, the debt settlement services agreement must automatically terminate, and all funds held by the debt settlement services provider that exceed the fees allowed under section 332B.09 must be immediately returned to the debtor.

Subd. 4. **Debt settlement services provider's right to cancel.** (a) A debt settlement services provider may cancel a debt settlement services agreement with good cause upon 30 days' written notice to the debtor.

(b) Within ten days after the cancellation, the debt settlement services provider must notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement services agreement, in communication, of the cancellation.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

(d) A debt settlement services provider is entitled to the full amount of the fees provided for in the debt settlement services agreement if the provider can show that:

(1) the provider obtained a settlement offer from the creditor or creditors in accordance with the debt settlement services agreement;

(2) the debtor rejected the settlement offer; or

(3) within the period contemplated in the debt settlement services agreement, the debtor entered into a settlement agreement with the same creditor or creditors for an amount equal to or lower than the settlement offer obtained by the provider.

Sec. 25. **[332B.08] BOOKS, RECORDS, AND INFORMATION.**

Subdivision 1. **Records retention; annual report.** Every registrant must keep, and use in the registrant's business, such books, accounts, and records, including electronic records, as will enable the commissioner to determine whether the registrant is complying with this chapter and the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Annual report.** On or before March 15 of each calendar year, each registrant must file a report with the commissioner containing information the commissioner may require about the preceding calendar year. The report must be in a form the commissioner prescribes.

Subd. 3. **Statements to debtors.** (a) Each registrant must:

(1) maintain and make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors, if any. A statement showing amounts received from the debtor, disbursements, if any, to each creditor, amounts that any creditor has agreed to as payment in full for any debt owed the creditor by the debtor, fees deducted by the registrant, and other information the commissioner may prescribe, must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract;

(2) include in the statement furnished to debtors a list of all activities conducted pursuant to the contract, including the nature of communications and progress of negotiations with each creditor during the reporting period; and

(3) prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practicable.

(b) Each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential, except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees.

Sec. 26. [332B.09] FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION TO DEBTOR OF SETTLEMENT OFFER.

Subdivision 1. **Choice of fee structure.** A debt settlement services provider may calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee structure shall be clearly disclosed and explained in the debt settlement services agreement.

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) \$200 on aggregate debt of less than \$20,000; or

(ii) \$400 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

(i) no greater than \$50 per month on aggregate debt of less than \$40,000; and

(ii) no greater than \$60 per month on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

(b) When a settlement offer is obtained by a debt settlement services provider from a creditor, the collection of any monthly fees shall cease beginning the month following the month in which the settlement offer was obtained by the debt settlement services provider.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 3. **Fees as a percentage of savings.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 30 percent of the savings actually negotiated by the debt settlement services provider. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) \$300 on aggregate debt of less than \$20,000; or

(ii) \$500 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

(i) no greater than \$65 on aggregate debt of less than \$40,000; and

(ii) no greater than \$75 on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 30 percent of the savings, as calculated under paragraph (a).

(b) The collection of monthly fees shall cease under this subdivision when the total of monthly fees and the origination fee equals 50 percent of the total fees allowable under this subdivision. For the purposes of this subdivision, 50 percent of the total fees allowable shall assume a settlement of 50 cents on the dollar.

(c) In no event may more than 50 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation may be claimed, demanded, charged, collected, or received other than the fees allowed under this section. Any fees collected in excess of those allowed under this section must be immediately returned to the debtor.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify the debt settlement services agreement, unless at least 50 percent of the listed creditors withdraw, in which case the debt settlement services provider must notify the debtor of the debtor's right to cancel. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement offer.** A debt settlement services provider must make all reasonable efforts to notify the debtor within 24 hours of a settlement offer made by a creditor.

Sec. 27. **[332B.10] PROHIBITIONS.**

No debt settlement services provider shall:

(1) engage in any activity, act, or omission prohibited under section 332A.14;

(2) promise, guarantee, or directly or indirectly imply, infer, or in any manner represent that any debt will be settled prior to the presentation to the debtor of an offer by the creditors participating in the debt settlement plan to settle;

(3) misrepresent the timing of negotiations with creditors;

(4) imply, infer, or in any manner represent that:

(i) fees, interest, and other charges will not continue to accrue prior to the time debts are settled;

(ii) wages or bank accounts are not subject to garnishment;

(iii) creditors will not continue to contact the debtor;

(iv) the debtor is not subject to legal action; and

(v) the debtor will not be subject to tax consequences for the portion of any debts forgiven;

(5) execute a power of attorney or any other agreement, oral or written, express or implied, that extinguishes or limits the debtor's right at any time to contract or communicate with any creditor or the creditor's right at any time to communicate with the debtor;

(6) exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(7) state, imply, infer, or, in any other manner, indicate that entering into a debt settlement services agreement or settling debts will either have no effect on, or improve, the debtor's credit, credit rating, and credit score;

(8) challenge a debt without the written consent of the debtor;

(9) make any false or misleading claim regarding a creditor's right to collect a debt;

(10) falsely represent that the debt settlement services provider can negotiate better settlement terms with a creditor than the debtor alone can negotiate;

(11) provide or offer to provide legal advice or legal services unless the person providing or offering to provide legal advice is licensed to practice law in the state;

(12) misrepresent that it is authorized or competent to furnish legal advice or perform legal services; and

(13) settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification from the creditor that the payment is in full settlement of the debt.

Sec. 28. **[332B.11] ADVERTISEMENT AND SOLICITATION OF DEBT SETTLEMENT SERVICES.**

Subdivision 1. **Advertisement.** No debt settlement services provider or lead generator may:

(1) make any false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt settlement services plan, or create the likelihood of consumer confusion or misunderstanding regarding its services;

(2) represent that the debt settlement services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt settlement services will be provided by a for-profit company that is a controlling or affiliated party to the debt settlement services provider;

(3) make any communication that gives the impression that the debt settlement services provider is acting on behalf of a government agency; or

(4) represent, claim, imply, or infer that secured debts may be settled.

Subd. 2. Solicitation by lead generators. (a) In all print, electronic, and nonprint solicitations, including Web sites and radio or television advertising, a lead generator must prominently make the following verbatim disclosure: "This company does not actually provide any debt settlement, debt consolidation, or other credit counseling services. We ONLY refer you to companies that want to provide some or all of those services."

(b) A lead generator may not, in any advertising or solicitation to debtors:

(1) represent that any service is guaranteed; or

(2) misrepresent the benefits of its services or debt settlement or consolidation in comparison to credit counseling, debt management, or bankruptcy.

Sec. 29. [332B.12] DEBT SETTLEMENT SERVICES AGREEMENT RESCISSION.

Any debtor has the right to rescind any debt settlement services agreement with a debt settlement services provider that commits a material violation of this chapter. On rescission, all fees paid to the debt settlement services provider or any other person other than creditors of the debtor must be returned to the debtor entering into the debt settlement services agreement within ten days of rescission of the debt settlement services agreement.

Sec. 30. [332B.13] ENFORCEMENT; REMEDIES.

Subdivision 1. Violation as deceptive practice. A violation of any of the provisions of this chapter is considered an unfair or deceptive trade practice under section 8.31, subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in the public interest.

Subd. 2. Private right of action. (a) A debt settlement provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable under this section in an individual action for the sum of:

(1) actual, incidental, and consequential damages sustained by the debtor as a result of the failure; and

(2) statutory damages of up to \$5,000.

(b) A debt settlement provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable to the named plaintiffs under this section in a class action for the amount that each named plaintiff could recover under paragraph (a), clause (1), and to the other class members for such amount as the court may allow.

(c) In determining the amount of statutory damages, the court shall consider, among other relevant factors:

(1) the frequency, nature, and persistence of noncompliance;

(2) the extent to which the noncompliance was intentional; and

(3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** (a) A debtor may sue a debt settlement services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt settlement services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt settlement services provider violated any provision of this chapter.

(b) A debtor may sue a lead generator for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of section 332B.11. A court must grant injunctive relief on a showing that the lead generator has violated section 332B.11, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the lead generator violated section 332B.11.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

Sec. 31. **[332B.14] INVESTIGATIONS.**

At any reasonable time, the commissioner may examine the books and records of every registrant and of any person engaged in the business of providing debt settlement services. The commissioner, once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for environment, natural resources, and energy; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; extending certain land sale requirements; prohibiting certain sales of outdoor recreation system lands; providing for exchange of riparian land; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; modifying feedlot permit and grant provisions; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing, modifying, and authorizing fees and surcharges; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; modifying prior appropriations; prohibiting certain reorganizations; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring studies and reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; providing for green enterprise assistance; modifying provisions related to insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13,

subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.922, subdivision 1a; 84D.15, subdivision 2; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 92.685; 93.481, subdivisions 1, 3, 5, 7; 94.342, subdivision 3; 97A.075, subdivision 1; 103G.271, subdivision 6; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 1; 115A.931; 116.0711; 116.41, subdivision 2; 116C.834, subdivision 1; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 332A.16; Laws 2005, chapter 156, article 2, section 45, as amended; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 86A; 93; 115A; 116; 116J; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140."

We request the adoption of this report and repassage of the bill.

House Conferees: JEAN WAGENIUS, BILL HILTY, KATE KNUTH, RICK HANSEN and JENIFER LOON.

Senate Conferees: ELLEN ANDERSON, TOM SAXHAUG, SATVEER CHAUDHARY, DENNIS FREDERICKSON and PATRICIA TORRES RAY.

Wagenius moved that the report of the Conference Committee on H. F. No. 2123 be adopted and that the bill be repassed as amended by the Conference Committee.

The Speaker called Juhnke to the Chair.

Seifert moved that the House refuse to adopt the report of the Conference Committee on H. F. No. 2123 and that the bill be returned to the Conference Committee for further consideration.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 46 yeas and 86 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Emmer	Howes	Murdock	Shimanski
Anderson, B.	Dean	Garofalo	Kelly	Nornes	Smith
Anderson, P.	Demmer	Gottwalt	Kiffmeyer	Peppin	Torkelson
Anderson, S.	Dettmer	Gunther	Kohls	Rosenthal	Urdahl
Beard	Doepke	Hackbarth	Lanning	Sanders	Westrom
Brod	Downey	Hamilton	Magnus	Scott	Zellers
Buesgens	Drazkowski	Holberg	McFarlane	Seifert	
Cornish	Eastlund	Hoppe	McNamara	Severson	

Those who voted in the negative were:

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

The motion did not prevail.

The question recurred on the Wagenius motion that the report of the Conference Committee on H. F. No. 2123 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2123, A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a

subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

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

The question was taken on the repassage of the bill and the roll was called. There were 98 yeas and 35 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Davids	Emmer	Hoppe	Nornes	Shimanski
Anderson, P.	Dean	Garofalo	Kelly	Peppin	Smith
Anderson, S.	Demmer	Gottwalt	Kiffmeyer	Sanders	Urdahl
Beard	Dettmer	Gunther	Kohls	Scott	Westrom
Brod	Drazkowski	Hackbarth	Magnus	Seifert	Zellers
Buesgens	Eastlund	Holberg	Murdock	Severson	

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

CALENDAR FOR THE DAY, Continued

Sertich moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Swails moved that the name of Falk be added as an author on H. F. No. 211. The motion prevailed.

Morgan moved that the name of Scalze be added as an author on H. F. No. 1112. The motion prevailed.

Johnson moved that the name of Hornstein be added as an author on H. F. No. 1992. The motion prevailed.

Thissen moved that the names of Greiling and Scalze be added as authors on H. F. No. 2145. The motion prevailed.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1091:

Dean, Bunn and Lillie.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1147:

Hayden, Mullery and Holberg.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 9:30 a.m., Tuesday, May 5, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Juhnke declared the House stands adjourned until 9:30 a.m., Tuesday, May 5, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

