

## STATE OF MINNESOTA

## EIGHTY-SEVENTH SESSION — 2012

---

 NINETY-THIRD DAY

SAINT PAUL, MINNESOTA, MONDAY, MARCH 26, 2012

The House of Representatives convened at 3:00 p.m. and was called to order by Pat Mazorol, Speaker pro tempore.

Prayer was offered by the Reverend Jon Ellefson, Retired Lutheran Minister, Rosemount, 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	Davnie	Hamilton	Laine	Morrow	Schomacker
Allen	Dean	Hancock	Lanning	Mullery	Scott
Anderson, B.	Dettmer	Hansen	Leidiger	Murdock	Shimanski
Anderson, D.	Dill	Hausman	LeMieur	Murphy, E.	Simon
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Murphy, M.	Slawik
Anderson, S.	Doepke	Hilty	Lesch	Murray	Slocum
Anzelc	Downey	Holberg	Liebling	Myhra	Smith
Atkins	Drazkowski	Hoppe	Lillie	Nelson	Stensrud
Banaian	Eken	Hornstein	Loeffler	Nornes	Swedzinski
Barrett	Erickson	Hortman	Lohmer	Norton	Thissen
Beard	Fabian	Hosch	Loon	O'Driscoll	Tillberry
Benson, J.	Falk	Howes	Mack	Paymar	Torkelson
Benson, M.	Franson	Huntley	Mahoney	Pelowski	Urdahl
Bills	Fritz	Johnson	Mariani	Peppin	Vogel
Brynaert	Garofalo	Kahn	Marquart	Persell	Wagenius
Buesgens	Gauthier	Kath	Mazorol	Petersen, B.	Ward
Carlson	Gottwalt	Kelly	McDonald	Peterson, S.	Wardlow
Champion	Greene	Kieffer	McElpatrick	Poppe	Westrom
Cornish	Greiling	Kiel	McFarlane	Quam	Winkler
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Woodard
Daudt	Gunther	Knuth	Melin	Runbeck	
Davids	Hackbarth	Koenen	Moran	Scalze	

A quorum was present.

Kriesel, Sanders and Zellers were excused.

Clark was excused until 3:25 p.m.

The Chief Clerk proceeded to read the Journals of the preceding days. There being no objection, further reading of the Journals were dispensed with and the Journals were approved as corrected by the Chief Clerk.

Speaker pro tempore Mazorol called Davids to the Chair.

### PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

March 20, 2012

The Honorable Kurt Zellers  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Zellers:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State H. F. Nos. 1515, 2152 and 1738.

Sincerely,

MARK DAYTON  
Governor

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

The Honorable Kurt Zellers  
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2012 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.</i> <i>No.</i>	<i>H. F.</i> <i>No.</i>	<i>Session Laws</i> <i>Chapter No.</i>	<i>Time and</i> <i>Date Approved</i> <i>2012</i>	<i>Date Filed</i> <i>2012</i>
	1515	132	3:33 p.m. March 20	March 20

2152  
1738134  
1353:35 p.m. March 20  
3:36 p.m. March 20March 20  
March 20

Sincerely,

MARK RITCHIE  
Secretary of State**REPORTS OF STANDING COMMITTEES AND DIVISIONS**

Shimanski from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 322, A bill for an act relating to family law; changing certain custody and parenting time provisions; amending Minnesota Statutes 2010, sections 257.541; 518.003, subdivision 3; 518.091; 518.131, subdivisions 1, 7; 518.155; 518.156; 518.167, subdivision 2; 518.17, subdivisions 1, 3; 518.1705, subdivisions 3, 5, 9; 518.175, subdivision 1; 518.179, subdivision 1; 518.18; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2010, section 518.17, subdivision 2.

Reported the same back with the following amendments:

Page 2, line 10, delete "2012" and insert "2013"

Page 2, line 32, delete "2012" and insert "2013"

Page 4, line 26, delete "2012" and insert "2013"

Page 5, line 20, delete "2012" and insert "2013"

Page 5, line 26, delete "2012" and insert "2013"

Page 6, line 3, delete "2012" and insert "2013"

Page 6, line 28, delete "2012" and insert "2013"

Page 7, line 15, delete "2012" and insert "2013"

Page 10, line 18, delete "2012" and insert "2013"

Page 14, line 23, delete "2012" and insert "2013"

Page 16, line 25, delete "2013" and insert "2014"

Page 16, line 28, delete "2012" and insert "2013"

Page 17, line 1, delete "2012" and insert "2013"

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.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 383, A bill for an act relating to health; extending moratorium on radiation therapy facility construction in certain counties; providing an exception to moratorium; amending Minnesota Statutes 2010, section 144.5509.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 144.5509, is amended to read:

**144.5509 RADIATION THERAPY FACILITY CONSTRUCTION.**

(a) A radiation therapy facility may be constructed only by an entity owned, operated, or controlled by a hospital licensed according to sections 144.50 to 144.56 either alone or in cooperation with another entity. This paragraph expires August 1, 2014.

(b) Notwithstanding paragraph (a), there shall be a moratorium on the construction of any radiation therapy facility located in the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright. This paragraph does not apply to the relocation or reconstruction of an existing facility owned by a hospital if the relocation or reconstruction is within one mile of the existing facility. This paragraph does not apply to a radiation therapy facility that is being built attached to a community hospital in Wright County and meets the following conditions prior to August 1, 2007: the capital expenditure report required under Minnesota Statutes, section 62J.17, has been filed with the commissioner of health; a timely construction schedule is developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits applied for. Beginning January 1, 2013, this paragraph does not apply to any construction necessary to relocate a radiation therapy machine from a community hospital-owned radiation therapy facility located in the city of Maplewood to a community hospital campus in the city of Woodbury within the same health system. This paragraph expires August 1, 2014.

(c) After August 1, 2014, a radiation therapy facility may be constructed only if the following requirements are met:

(1) the entity constructing the radiation therapy facility is controlled by or is under common control with a hospital licensed under sections 144.50 to 144.56; and

(2) the new radiation therapy facility is located at least seven miles from an existing radiation therapy facility.

(d) Any referring physician must provide each patient who is in need of radiation therapy services with a list of all radiation therapy facilities located within the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright. Physicians with a financial interest in any radiation therapy facility must disclose to the patient the existence of the interest.

(e) For purposes of this section, "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the policies, operations, or activities of an entity, through the ownership of, or right to vote or to direct the disposition of shares, membership interests, or ownership interests of the entity.

(f) For purposes of this section, "financial interest in any radiation therapy facility" means a direct or indirect ownership or investment interest in a radiation therapy facility or a compensation arrangement with a radiation therapy facility.

(g) This section does not apply to the relocation or reconstruction of an existing radiation therapy facility if:

(1) the relocation or reconstruction of the facility remains owned by the same entity;

(2) the relocation or reconstruction is located within one mile of the existing facility; and

(3) the period in which the existing facility is closed and the relocated or reconstructed facility begins providing services does not exceed 12 months.

Sec. 2. **STUDY OF RADIATION THERAPY FACILITIES CAPACITY.**

(a) To the extent of available appropriations, the commissioner of health shall conduct a study of the following: (1) current treatment capacity of the existing radiation therapy facilities within the state; (2) the present need for radiation therapy services based on population demographics and new cancer cases; and (3) the projected need in the next ten years for radiation therapy services and whether the current facilities can sustain this projected need.

(b) The commissioner may contract with a qualified entity to conduct the study. The study shall be completed by March 15, 2013, and the results shall be submitted to the chairs and ranking minority members of the health and human services committees of the legislature."

Delete the title and insert:

"A bill for an act relating to health; establishing criteria that must be met before a new radiation therapy facility can be constructed; requiring a study of radiation therapy facilities capacities; amending Minnesota Statutes 2010, section 144.5509."

With the recommendation that when so amended the bill pass.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 595, A bill for an act relating to health; repealing the moratorium on radiation therapy facility construction in Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright Counties; amending Minnesota Statutes 2010, section 144.5509.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 144.5509, is amended to read:

**144.5509 RADIATION THERAPY FACILITY CONSTRUCTION.**

(a) A radiation therapy facility may be constructed only by an entity owned, operated, or controlled by a hospital licensed according to sections 144.50 to 144.56 either alone or in cooperation with another entity. This paragraph expires August 1, 2014.

(b) Notwithstanding paragraph (a), there shall be a moratorium on the construction of any radiation therapy facility located in the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright. This paragraph does not apply to the relocation or reconstruction of an existing facility owned by a hospital if the relocation or reconstruction is within one mile of the existing facility. This paragraph does not apply to a radiation therapy facility that is being built attached to a community hospital in Wright County and meets the following conditions prior to August 1, 2007: the capital expenditure report required under Minnesota Statutes, section 62J.17, has been filed with the commissioner of health; a timely construction schedule is developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits applied for. Beginning January 1, 2013, this paragraph does not apply to any construction necessary to relocate a radiation therapy machine from a community hospital-owned radiation therapy facility located in the city of Maplewood to a community hospital campus in the city of Woodbury within the same health system. This paragraph expires August 1, 2014.

(c) After August 1, 2014, a radiation therapy facility may be constructed only if the following requirements are met:

(1) the entity constructing the radiation therapy facility is controlled by or is under common control with a hospital licensed under sections 144.50 to 144.56; and

(2) the new radiation therapy facility is located at least seven miles from an existing radiation therapy facility.

(d) Any referring physician must provide each patient who is in need of radiation therapy services with a list of all radiation therapy facilities located within the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright. Physicians with a financial interest in any radiation therapy facility must disclose to the patient the existence of the interest.

(e) For purposes of this section, "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the policies, operations, or activities of an entity, through the ownership of, or right to vote or to direct the disposition of shares, membership interests, or ownership interests of the entity.

(f) For purposes of this section, "financial interest in any radiation therapy facility" means a direct or indirect ownership or investment interest in a radiation therapy facility or a compensation arrangement with a radiation therapy facility.

(g) This section does not apply to the relocation or reconstruction of an existing radiation therapy facility if:

(1) the relocation or reconstruction of the facility remains owned by the same entity;

(2) the relocation or reconstruction is located within one mile of the existing facility; and

(3) the period in which the existing facility is closed and the relocated or reconstructed facility begins providing services does not exceed 12 months.

## Sec. 2. **STUDY OF RADIATION THERAPY FACILITIES CAPACITY.**

(a) To the extent of available appropriations, the commissioner of health shall conduct a study of the following: (1) current treatment capacity of the existing radiation therapy facilities within the state; (2) the present need for radiation therapy services based on population demographics and new cancer cases; and (3) the projected need in the next ten years for radiation therapy services and whether the current facilities can sustain this projected need.

(b) The commissioner may contract with a qualified entity to conduct the study. The study shall be completed by March 15, 2013, and the results shall be submitted to the chairs and ranking minority members of the health and human services committees of the legislature."

Delete the title and insert:

"A bill for an act relating to health; establishing criteria that must be met before a new radiation therapy facility can be constructed; requiring a study of radiation therapy facilities capacities; amending Minnesota Statutes 2010, section 144.5509."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Regulatory Reform.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 2003, A bill for an act relating to state government; allowing operations on an ongoing basis for the Racing Commission, Gambling Control Board, and State Lottery; amending Minnesota Statutes 2010, sections 240.15, subdivision 6; 240.155, subdivision 1; 240.30, subdivision 9; 349.151, subdivision 4; 349A.10, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Nornes from the Committee on Higher Education Policy and Finance to which was referred:

H. F. No. 2025, A bill for an act relating to education; expanding the postsecondary enrollment options program; establishing a career and technical education task force; amending Minnesota Statutes 2010, sections 124D.09, subdivisions 9, 10, 12, 24; 135A.101, subdivision 1; Minnesota Statutes 2011 Supplement, section 124D.09, subdivision 5; repealing Minnesota Statutes 2010, section 124D.09, subdivision 23.

Reported the same back with the following amendments:

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2011 Supplement, section 124D.09, subdivision 7, is amended to read:

Subd. 7. ~~Dissemination of Disseminating information; notification notice of intent to enroll.~~ By March 1 of each year, a district must provide general information about the program to all pupils in grades 8, 9, 10, and 11. The district must include materials prepared by eligible institutions describing the educational and financial benefits of the program. To assist the district in planning, a pupil shall inform the district by March 30 of each year of the pupil's intent to enroll in postsecondary courses during the following school year. A pupil is not bound by notifying or not notifying the district by March 30.

**EFFECTIVE DATE.** This section is effective for the 2012-2013 school year and later."

Page 4, delete section 6

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 and be re-referred to the Committee on Education Finance.

The report was adopted.

Shimanski from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2059, A bill for an act relating to public defenders; amending provisions related to public defender representation, appointment, and reimbursement obligations; outlining financial responsibility for public defender costs, cost for counsel in CHIPS cases, pretrial appeals costs, and standby counsel costs; establishing an appellate process working group; amending Minnesota Statutes 2010, sections 244.052, subdivision 6; 244.11, subdivision 1; 257.69, subdivision 1; 260B.163, subdivision 4; 260B.331, subdivision 5; 260C.163, subdivision 3; 260C.331, subdivision 5; 609.115, subdivision 4; 609.131, subdivision 1; 611.14; 611.16; 611.17; 611.18; 611.20, subdivision 4; 611.215, subdivision 2; 611.26, subdivision 6; 611.27, subdivision 5, by adding a subdivision; repealing Minnesota Statutes 2010, sections 611.20, subdivision 6; 611.27, subdivision 15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 244.052, subdivision 6, is amended to read:

Subd. 6. **Administrative review.** (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify: (1) the offender; (2) the victim or victims of the offender's offense who have requested disclosure or their designee; (3) the law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed; (4) the law enforcement agency having jurisdiction where the offender expects to reside, providing that the release plan has been approved by the hearings and release unit of the department of corrections; and (5) any other individuals the chair may select. The notice shall state the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5, unless the administrative law judge orders otherwise for good cause shown.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The review hearing shall be conducted at the correctional facility in which the offender is currently confined. If the offender no longer is incarcerated, the administrative law judge shall determine the place where the review hearing will be conducted. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present ~~and be represented by counsel at the hearing~~, to present evidence in support of the offender's position, to call supporting witnesses and to cross-examine witnesses testifying in support of the committee's determination. ~~Counsel for indigent offenders shall be provided by the Legal Advocacy Project of the state public defender's office.~~



(c) After the hearing is concluded, the administrative law judge shall decide whether the end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

(e) The administrative law judge may seal any portion of the record of the administrative review hearing to the extent necessary to protect the identity of a victim of or witness to the offender's offense.

**EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to review hearings requested on or after that date.

Sec. 2. Minnesota Statutes 2010, section 257.69, subdivision 1, is amended to read:

Subdivision 1. **Representation by counsel.** In all proceedings under sections 257.51 to 257.74, any party may be represented by counsel. The county attorney shall represent the public authority. ~~The court shall appoint counsel for a party who is unable to pay timely for counsel.~~ In proceedings under sections 257.51 to 257.74, the court shall appoint counsel for a party who would be financially unable to obtain counsel under the guidelines set forth in section 611.17. The representation of appointed counsel is limited in scope to the issue of establishment of parentage.

Sec. 3. Minnesota Statutes 2010, section 260B.163, subdivision 4, is amended to read:

Subd. 4. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260B.007, subdivision 16, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260B.235, subdivision 6.

(b) The court shall appoint counsel, or standby counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(c) ~~If they desire counsel but are unable to employ it,~~ The court shall appoint counsel to represent the child under section 611.14, clause (4), or the parents or guardian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel under the guidelines set forth in section 611.17, except a juvenile petty offender who does not have the right to counsel under paragraph (a). If the court appoints standby or advisory counsel, the cost of counsel shall be paid for by the Office of the State Court Administrator with state funds or, if the prosecutor requests the appointment, by the governmental unit conducting the prosecution. In no event may the court order the Board of Public Defense to pay the cost of standby or advisory counsel.

(d) Counsel for the child shall not also act as the child's guardian ad litem.

Sec. 4. Minnesota Statutes 2010, section 260B.331, subdivision 5, is amended to read:

Subd. 5. **Attorneys fees.** (a) In proceedings in which the court has appointed counsel pursuant to section 260B.163, subdivision 4, for a minor unable to employ counsel, the court ~~may~~ shall inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees.

(b) The court may order a parent under paragraph (a) to reimburse the state for the cost of the child's appointed counsel. In determining the amount of reimbursement, the court shall consider the parent's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a parent if the parent's financial circumstances warrant establishing a reduced reimbursement schedule. If the parent does not agree to make payments, the court may order the parent's employer to withhold a percentage of the parent's income to be turned over to the court.

Sec. 5. Minnesota Statutes 2010, section 260C.163, subdivision 3, is amended to read:

Subd. 3. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.

(b) Except in proceedings where the sole basis for the petition is habitual truancy, if the child, parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older under section 611.14, clause (4), or the ~~parents or guardian~~ parent, guardian, or custodian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel under the guidelines set forth in section 611.17.

(c) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with ~~paragraph (b)~~ this subdivision.

(d) Counsel for the child shall not also act as the child's guardian ad litem.

(e) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, if the child is of suitable age to express a preference.

(f) Court-appointed counsel for the parent, guardian, or custodian under this subdivision is at county expense. If the county has contracted with counsel meeting qualifications under paragraph (g), the court shall appoint the counsel retained by the county, unless a conflict of interest exists. If a conflict exists, after consulting with the chief judge of the judicial district or the judge's designee, the county shall contract with competent counsel to provide the necessary representation. The court may appoint only one counsel at public expense for the first court hearing to represent the interests of the parents, guardians, and custodians, unless, at anytime during the proceedings upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent a separate interest of other parents, guardians, or custodians subject to the jurisdiction of the juvenile court.

(g) Counsel retained by the county under paragraph (f) must meet the qualifications established by the Judicial Council in at least one of the following: (1) has a minimum of two years' experience handling child protection cases; (2) has training in handling child protection cases from a course or courses approved by the Judicial Council; or (3) is supervised by an attorney who meets the minimum qualifications under clause (1) or (2).

Sec. 6. Minnesota Statutes 2010, section 260C.331, subdivision 5, is amended to read:

Subd. 5. **Attorneys fees.** (a) In proceedings in which the court has appointed counsel pursuant to ~~section~~ sections 260C.163, subdivision 3, and 611.14, clause (4), for a minor unable to employ counsel, the court ~~may shall~~ inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees.

(b) In proceedings in which the court has appointed counsel pursuant to section 260C.163, subdivision 3, for a parent, guardian, or custodian, the court shall inquire into the ability of the parents, guardians, or custodians to pay for such counsel's services and, after giving these persons a reasonable opportunity to be heard, may order the appropriate person to pay attorneys fees.

(c) The court may order the appropriate person or persons under paragraph (a) or (b), or both, to reimburse the governmental unit providing counsel for the cost of appointed counsel. In determining the amount of reimbursement, the court shall consider the appropriate person's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a person if the person's financial circumstances warrant establishing a reduced reimbursement schedule. If the person does not agree to make payments, the court may order the person's employer to withhold a percentage of the person's income to be turned over to the court.

Sec. 7. Minnesota Statutes 2010, section 609.115, subdivision 4, is amended to read:

Subd. 4. **Confidential sources of information.** (a) Any report made pursuant to subdivision 1 shall be, if written, provided to counsel for all parties before sentence. The written report shall not disclose confidential sources of information unless the court otherwise directs. On the request of the prosecuting attorney or the defendant's attorney a summary hearing in chambers shall be held on any matter brought in issue, but confidential sources of information shall not be disclosed unless the court otherwise directs. If the presentence report is given orally the defendant or the defendant's attorney shall be permitted to hear the report.

(b) Any report made under subdivision 1 or 2 shall be provided to counsel for the defendant for purposes of representing the defendant on any appeal or petition for postconviction relief. The reports shall be provided by the court and the commissioner of corrections at no cost to the defendant or the defendant's attorney.

Sec. 8. Minnesota Statutes 2010, section 609.131, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. Prior to the appointment of a public defender to represent a defendant charged with a misdemeanor, the court shall inquire of the prosecutor whether the prosecutor intends to certify the case as a petty misdemeanor. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the ~~defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor~~ defendant is not eligible for the appointment of a public defender.

Sec. 9. Minnesota Statutes 2010, section 611.14, is amended to read:

#### **611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.**

The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender:

(1) a person charged with a felony, gross misdemeanor, or misdemeanor including a person charged under sections 629.01 to 629.29;

(2) a person appealing from a conviction of a felony ~~or~~ gross misdemeanor, or misdemeanor, or a person convicted of a felony ~~or~~ gross misdemeanor, or misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction;

(3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or

(4) a minor ten years of age or older who is entitled to be represented by counsel under section 260B.163, subdivision 4, or 260C.163, subdivision 3.

**EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to offenses committed on or after that date.

Sec. 10. Minnesota Statutes 2010, section 611.16, is amended to read:

**611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.**

Any person described in section 611.14 ~~or any other person entitled by law to representation by counsel~~, may at any time request the court in which the matter is pending, or the court in which the conviction occurred, to appoint a public defender to represent the person. ~~In a proceeding defined by clause (2) of section 611.14, application for the appointment of a public defender may also be made to a judge of the Supreme Court.~~

Sec. 11. Minnesota Statutes 2010, section 611.17, is amended to read:

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

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

~~(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means tested governmental benefits; or is charged with a misdemeanor and has an annual household income not greater than 125 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);~~

(2) the defendant is charged with a gross misdemeanor and has an annual household income not greater than 150 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);

(3) the defendant is charged with a felony and has an annual household income not greater than 175 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2); or

~~(4) the court determines that~~ the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make an appropriate inquiry into the determination of financial circumstances eligibility under paragraph (a) of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements, which must be used by the district courts throughout the state. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender ~~appointed by the court to represent the applicant~~ except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a ~~district~~ public defender to a defendant who is financially able to retain private counsel but refuses to do so, refuses to execute the financial statement or refuses to provide information necessary to determine financial eligibility under this section, or waives the appointment of a public defender under section 611.19.

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

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

(4) the value of all property transfers occurring on or after the date of the alleged offense or notice of the action. The burden is on the accused to show that the accused is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel or standby counsel. If the court appoints advisory or standby counsel, the cost of counsel shall be paid for by the Office of the State Court Administrator or, if the prosecutor requests the appointment, by the governmental unit conducting the prosecution. In no event may the court order the Board of Public Defense to pay the cost of advisory or standby counsel.

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

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

Sec. 12. Minnesota Statutes 2010, section 611.18, is amended to read:

#### **611.18 APPOINTMENT OF PUBLIC DEFENDER.**

If it appears to a court that a person requesting the appointment of counsel satisfies the requirements of this chapter, the court shall order the ~~appropriate~~ public defender to represent the person ~~at all further stages of the proceeding through appeal, if any~~. For a person appealing from a conviction, or a person pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, according to the standards of sections

611.14, ~~clause (2)~~, and 611.25, subdivision 1, paragraph (a), clause (2), the ~~state chief appellate~~ public defender shall be appointed. For a person covered by section 611.14, clause (1), ~~(3), or (4)~~, a the chief district public defender shall be appointed to represent that person. ~~If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.~~ If at any stage of the proceedings, ~~including an appeal~~, the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the appropriate public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel. The representation may be made available at the discretion of the public defender, upon the request of the person or someone on the person's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

Sec. 13. Minnesota Statutes 2010, section 611.20, subdivision 4, is amended to read:

Subd. 4. **Employed defendants; ability to pay.** (a) A court ~~shall~~ may order a defendant ~~who is employed when a public defender is appointed, or who becomes employed while represented by a public defender,~~ to reimburse the state for the cost of the public defender. In determining the amount of reimbursement, the court shall consider the defendant's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant establishing a reduced reimbursement schedule. ~~The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule.~~ If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. ~~The percentage to be withheld may be determined under subdivision 6.~~

(b) If a court determines under section 611.17 that a defendant is financially unable to pay the reasonable costs charged by private counsel due to the cost of a private retainer fee, the court shall evaluate the defendant's ability to make partial payments or reimbursement.

Sec. 14. Minnesota Statutes 2010, section 611.25, subdivision 1, is amended to read:

Subdivision 1. **Representation.** (a) The chief appellate public defender shall represent, without charge:

- (1) a defendant or other person appealing from a conviction of a felony ~~or~~, gross misdemeanor, or misdemeanor;
- (2) a person convicted of a felony ~~or~~, gross misdemeanor, or misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction; and
- (3) a child who is appealing from a delinquency adjudication or from an extended jurisdiction juvenile conviction.

(b) The chief appellate public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

(c) The chief appellate public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award.

**EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to offenses committed on or after that date.

Sec. 15. Minnesota Statutes 2010, section 611.26, subdivision 6, is amended to read:

Subd. 6. **Persons defended.** The district public defender shall represent, without charge, a defendant charged with a felony, a gross misdemeanor, or misdemeanor when so directed by the district court. The district public defender shall also represent a minor ten years of age or older in the juvenile court when so directed by the juvenile court. The district public defender must not serve as advisory counsel or standby counsel. The juvenile court may not order the district public defender to represent a minor who is under the age of ten years, to serve as a guardian ad litem, or to represent a guardian ad litem.

Sec. 16. Minnesota Statutes 2010, section 611.27, subdivision 5, is amended to read:

Subd. 5. **District public defender budgets and county payment responsibility.** ~~The Board of Public Defense may only fund those items and services in district public defender budgets which were included in the original budgets of district public defender offices as of January 1, 1990. All other public defense related costs remain the responsibility of the counties unless the state specifically appropriates for these. The cost of additional state funding of these items and services must be offset by reductions in local aids in the same manner as the original state takeover is solely responsible to provide counsel in adult criminal and juvenile cases, as specified under section 611.14. The court shall not appoint counsel at county expense for representation under section 611.14, except as provided in section 611.26, subdivision 3a, paragraph (c).~~

Sec. 17. Minnesota Statutes 2010, section 611.27, is amended by adding a subdivision to read:

Subd. 16. **Appeal by prosecuting attorney; attorney fees.** (a) When a prosecuting attorney appeals to the Court of Appeals, in any criminal case, from any pretrial order of the district court, reasonable attorney fees and costs incurred shall be allowed to the defendant on the appeal which shall be paid by the governmental unit responsible for the prosecution involved in accordance with paragraph (b).

(b) By January 15, 2013, and every year thereafter, the chief judge of the judicial district, after consultation with city and county attorneys, the chief public defender, and members of the private bar in the district, shall establish a reimbursement rate for attorney fees and costs associated with representation under paragraph (a). The compensation to be paid to an attorney for service rendered to a defendant under this subdivision may not exceed \$5,000, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the chief judge of the district as necessary to provide fair compensation for services of an unusual character or duration.

Sec. 18. **REPEALER.**

Minnesota Statutes 2010, section 611.20, subdivision 6, is repealed."

Delete the title and insert:

"A bill for an act relating to public defenders; amending provisions related to public defender representation, appointment, and reimbursement obligations; outlining financial responsibility for public defender costs, cost for counsel in CHIPS cases, pretrial appeals costs, and standby counsel costs; amending Minnesota Statutes 2010, sections 244.052, subdivision 6; 257.69, subdivision 1; 260B.163, subdivision 4; 260B.331, subdivision 5; 260C.163, subdivision 3; 260C.331, subdivision 5; 609.115, subdivision 4; 609.131, subdivision 1; 611.14; 611.16; 611.17; 611.18; 611.20, subdivision 4; 611.25, subdivision 1; 611.26, subdivision 6; 611.27, subdivision 5, by adding a subdivision; repealing Minnesota Statutes 2010, section 611.20, subdivision 6."

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.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 2128, A bill for an act relating to health; licensing emergency medical personnel; making changes to the Cooper/Sams volunteer ambulance program; amending Minnesota Statutes 2010, sections 144E.001, subdivisions 1b, 3a, 4a, 4b, 5c, 5d, 5e, 6, 11, 14, by adding subdivisions; 144E.01, subdivision 1; 144E.101, subdivisions 2, 6, 7, 9, 10, 12; 144E.103; 144E.127, subdivision 2; 144E.265, subdivision 2; 144E.27, subdivisions 1, 2, 3, 5, by adding a subdivision; 144E.275, subdivision 3; 144E.28, subdivisions 1, 5, 7; 144E.283; 144E.285; 144E.286, subdivision 3; 144E.29; 144E.30, subdivision 3; 144E.305, subdivision 2; 144E.31; 144E.32, subdivision 2; 144E.35, subdivision 1; 144E.41; 144E.52; Minnesota Statutes 2011 Supplement, sections 144E.001, subdivision 5f; 144E.28, subdivision 9; repealing Minnesota Rules, parts 4690.0100, subparts 16, 17; 4690.1400.

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

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 2171, A bill for an act relating to natural resources; modifying game and fish license provisions; providing for taking wolf; modifying requirements to take and transport wild animals; modifying department authority and duties; creating walk-in access program; modifying predator control program; modifying deer baiting restrictions; modifying authority to remove beavers; providing for disposition of certain receipts; eliminating venison donation program; modifying snowmobile registration and trail sticker requirements; modifying snowmobile operation provisions; modifying watercraft license fees; modifying shooting range provisions; requiring rulemaking; providing civil penalties; appropriating money; amending Minnesota Statutes 2010, sections 31.01, subdivision 3; 84.027, subdivisions 14, 15; 84.82, subdivisions 2, 3; 84.8205, subdivision 1; 84.83, subdivisions 2, 3; 84.86, subdivision 1; 84.8712, subdivision 1; 86B.301, subdivision 2; 86B.415, subdivisions 1, 2, by adding a subdivision; 87A.01, subdivision 4; 87A.02, subdivision 2; 97A.015, subdivisions 3a, 53; 97A.065, subdivision 6; 97A.137, subdivision 5; 97A.421, subdivision 3; 97A.441, subdivision 7; 97A.451, subdivisions 3, 4, by adding a subdivision; 97A.473, subdivisions 3, 5, 5a; 97A.475, subdivisions 2, 3, 3a, 20; 97A.482; 97B.001, subdivision 7; 97B.031, subdivisions 1, 2; 97B.035, subdivision 1a; 97B.055, subdivision 1; 97B.071; 97B.085, subdivision 3; 97B.328; 97B.601, subdivisions 3a, 4; 97B.603; 97B.605; 97B.671, subdivisions 3, 4; 97B.711, subdivision 1; 97B.805, subdivision 1; 97B.901; 97C.355, subdivision 1, by adding a subdivision; 97C.395, subdivision 1; 97C.515, subdivisions 2, 4, 5; Minnesota Statutes 2011 Supplement, sections 97A.075, subdivision 1, by adding a subdivision; 97B.075; 97B.645, subdivision 9; 97B.667; proposing coding for new law in Minnesota Statutes, chapters 97A; 97B; repealing Minnesota Statutes 2010, sections 17.035; 17.4993, subdivision 2; 87A.02, subdivision 1; 97A.045, subdivisions 8, 13; 97A.065, subdivision 1; 97A.095, subdivision 3; 97A.331, subdivision 7; 97A.485, subdivision 12; 97A.552; 97B.303; 97B.645, subdivision 2; 97C.031; 97C.515, subdivision 5.

Reported the same back with the following amendments:

Page 1, delete section 1 and insert:

"Section 1. **[31.64] DONATED VENISON.**

Notwithstanding any other law, the commissioner may not regulate venison donated for charitable purposes."



Page 10, after line 14, insert:

"Sec. 17. **[87A.09] PUBLIC SHOOTING RANGES; ACCESSIBILITY.**

A publicly owned or managed shooting range that is funded in whole or part with public funds must be available for use by participants in a firearms safety instruction course under section 97B.015. The shooting range must be available during hours reasonable for youth participants. The range operator may charge a fee to cover any costs directly incurred from use required under this section, but may not charge a fee to offset costs for general maintenance and operation of the facility."

Page 10, line 24, strike "Deer"

Page 10, line 25, strike everything after the first comma and insert "subdivisions 3, paragraph (b); 3a; and 4, paragraph (b)."

Page 12, after line 7, insert:

"Sec. 23. Minnesota Statutes 2010, section 97A.085, is amended by adding a subdivision to read:

Subd. 9. **Vacating refuges open to hunting.** Notwithstanding subdivision 8, the commissioner may vacate a state game refuge by publishing a notice in the State Register if the refuge has been open to trapping and hunting small game including waterfowl, deer or bear by archery, and deer or bear by firearms for at least five years.

Sec. 24. Minnesota Statutes 2010, section 97A.095, subdivision 1, is amended to read:

Subdivision 1. **Migratory waterfowl sanctuary.** The commissioner may designate by rule any part of a state game refuge or any part of a public water that is designated for management purposes under section 97A.101, subdivision 2, as a migratory waterfowl sanctuary ~~if there is presented to the commissioner a petition signed by ten resident licensed hunters describing an area that is primarily a migratory waterfowl refuge.~~ The commissioner must consider an area for designation upon presentation of a petition signed by at least ten residents demonstrating that the area is primarily a migratory waterfowl refuge. The commissioner shall post the area as a migratory waterfowl sanctuary. A person may not enter a posted migratory waterfowl sanctuary during the open migratory waterfowl season ~~or during other times prescribed by the commissioner~~ unless accompanied by or under a permit issued by a conservation officer or wildlife manager. Upon a request from a private landowner within a migratory waterfowl sanctuary, an annual permit must be issued to provide access to the property during the waterfowl season. The permit shall include conditions that allow no activity which would disturb waterfowl using the refuge during the waterfowl season.

Sec. 25. Minnesota Statutes 2010, section 97A.095, subdivision 2, is amended to read:

Subd. 2. **Waterfowl feeding and resting areas.** The commissioner may, by rule, designate any part of a lake as a migratory feeding and resting area ~~if there is adequate, free public access to the area.~~ Before designation, the commissioner must ~~receive a petition signed by at least ten local resident licensed hunters describing the area of a lake that is a substantial feeding or resting area for migratory waterfowl, and find that the statements in the petition are correct, and that adequate, free public access to the lake exists near the designated area~~ describe the area in a public notice and receive public comments for 30 days. The commissioner must consider an area for designation upon presentation of a petition signed by at least ten residents demonstrating that the area is a substantial feeding or resting area for migratory waterfowl. The commissioner shall post the area as a migratory waterfowl feeding and resting area. Except as authorized in rules adopted by the commissioner, a person may not enter a posted migratory waterfowl feeding and resting area, during a period when hunting of migratory waterfowl is allowed, with watercraft or aircraft propelled by a motor, other than an electric motor with battery power of 12 volts or less. The commissioner may, by rule, further restrict the use of electric motors in migratory waterfowl feeding and resting areas."

Page 18, after line 14, insert:

"Sec. 39. Minnesota Statutes 2010, section 97A.475, subdivision 4, is amended to read:

Subd. 4. **Small game surcharge and donation.** (a) Fees for annual licenses to take small game must be increased by a surcharge of \$6.50. An additional commission may not be assessed on the surcharge and the following statement must be included in the annual small game hunting regulations: "This \$6.50 surcharge is being paid by hunters for the acquisition and development of wildlife lands."

(b) A person may agree to add a donation of \$1, \$3, or \$5 to the fees for annual resident and nonresident licenses to take small game. An additional commission may not be assessed on the donation. The following statement must be included in the annual small game hunting regulations: "The small game license donations are being paid by hunters for administration of the walk-in access program."

Page 20, delete section 41

Page 20, before line 18, insert:

"Sec. 45. **[97B.063] HUNTER SATISFACTION SURVEY.**

The commissioner shall administer a hunter satisfaction survey through the department's Web site, to be completed online by licensed hunters at the end of each season. The commissioner shall provide the survey Web address on each hunting license."

Page 27, line 26, after "inches" insert "and less than 7-1/2 inches"

Page 27, line 28, delete everything after "enclosure"

Page 27, line 29, delete "square inches" and delete "of the"

Page 27, line 30, delete "opening" and insert "and frontmost portion of the open end of the enclosure"

Page 31, after line 12, insert:

"Sec. 70. Minnesota Statutes 2010, section 103G.005, is amended by adding a subdivision to read:

Subd. 11a. **Shallow lake.** "Shallow lake" means a body of water, excluding a stream, that is greater than or equal to 50 acres in size and less than or equal to 15 feet in maximum depth.

Sec. 71. Minnesota Statutes 2010, section 103G.408, is amended to read:

**103G.408 TEMPORARY DRAWDOWN OF PUBLIC WATERS.**

(a) The commissioner, upon consideration of recommendations and objections as provided in clause ~~(4)~~ (2), item (iii), and paragraph (c), may issue a public waters work permit for the temporary drawdown of a public water when:

(1) the public water is a shallow lake to be managed for fish, wildlife, or ecological purposes by the commissioner and the commissioner has conducted a public hearing presenting a comprehensive management plan outlining how and when temporary drawdowns under this section will be conducted; or

~~(4)~~ (2) the permit applicant is a public entity; and:

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

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

~~(4)~~ (iii) 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)~~ (2), item (iii), 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) Periodic temporary drawdowns conducted under paragraph (a) shall not be considered takings from riparian landowners.

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

Page 31, line 23, delete "62" and insert "66"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 10, after the first semicolon, insert "modifying temporary drawdown of public waters provisions;"

Correct the title numbers accordingly

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.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 2199, A bill for an act relating to retirement; correctional state employees retirement plan of the Minnesota State Retirement System; implementation of coverage changes recommended by the commissioner of human services; amending Minnesota Statutes 2010, section 352.91, subdivisions 3c, 3d, 3f.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
STATUTORY ACTUARIAL ASSUMPTION AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2010, section 356.215, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of sections 3.85 and 356.20 to 356.23, each of the terms in the following paragraphs has the meaning given.

(b) "Actuarial valuation" means a set of calculations prepared by an actuary retained under section 356.214 if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(c) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who is a fellow in the Society of Actuaries.

(d) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual, if the benefit plan is governed by section 69.773, or over the earnings of the individual, if the benefit plan is governed by any other law, between the entry age and the assumed exit age, with the portion of the actuarial present value which is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(e) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(f) "Actuarial value of assets" means:

~~(1) For the July 1, 2009, actuarial valuation, the market value of all assets as of June 30, 2009, reduced by:~~

~~(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2006, and June 30, 2005, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2005;~~

~~(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;~~

~~(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;~~

~~(iv) 80 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008; and~~

~~(v) if applicable, 80 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.~~

~~(2) For the July 1, 2010, actuarial valuation, the market value of all assets as of June 30, 2010, reduced by:~~

~~(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;~~

~~(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;~~

~~(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;~~

~~(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009; and~~

~~(v) if applicable, 60 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.~~

~~(3) For the July 1, 2011, actuarial valuation, the market value of all assets as of June 30, 2011, reduced by:~~

~~(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;~~

~~(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;~~

~~(iii) 60 percent of the difference between the actual net change in the market value of the total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of the total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;~~

~~(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010; and~~

~~(v) if applicable, 40 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.~~

(4) (1) For the July 1, 2012, actuarial valuation, the market value of all assets as of June 30, 2012, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2012, and June 30, 2011, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2011; and

(v) if applicable, 20 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

~~(5)~~ (2) For the July 1, 2013, and following actuarial valuations, the market value of all assets as of the preceding June 30, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred three years earlier and the June 30 that occurred four years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred two years earlier and the June 30 that occurred three years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred one year earlier and the June 30 that occurred two years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier; and

(iv) 80 percent of the difference between the actual net change in the market value of total assets between the most recent June 30 and the June 30 that occurred one year earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier.

(g) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of the actuarial value of assets and the present value of future normal costs.

(h) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 2. Minnesota Statutes 2011 Supplement, section 356.215, subdivision 8, is amended to read:

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

(1) select and ultimate interest rate assumption

plan	<u>ultimate</u> preretirement interest rate assumption	<u>ultimate</u> postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0

State Patrol retirement plan	8.5	6.0
legislators retirement plan		<del>6.0</del> -2.0 until June 30, 2040, and -2.5 after June 30, 2040
	<del>8.5</del> 0.0	
elective state officers retirement plan		<del>6.0</del> -2.0 until June 30, 2040, and -2.5 after June 30, 2040
	<del>8.5</del> 0.0	
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5

Except for the legislators retirement plan and the elective state officers retirement plan, the select preretirement interest rate assumption for the period after June 30, 2012, through June 30, 2017, is 8.0 percent. Except for the legislators retirement plan and the elective state officers retirement plan, the select postretirement interest rate assumption for the period after June 30, 2012, through June 30, 2017, is 5.5 percent, except for the Duluth teachers retirement plan and the St. Paul teachers retirement plan, each with a select postretirement interest rate assumption for the period after June 30, 2012, through June 30, 2017, of 8.0 percent.

(2) single rate preretirement and postretirement interest rate assumption

<u>plan</u>	<u>interest rate assumption</u>	
Fairmont Police Relief Association	5.0	<del>5.0</del>
Virginia Fire Department Relief Association	5.0	<del>5.0</del>
Bloomington Fire Department Relief Association	6.0	<del>6.0</del>
local monthly benefit volunteer firefighters relief associations	5.0	<del>5.0</del>

(b) ~~Before July 1, 2010,~~ The actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

<u>plan</u>	<u>future salary increase assumption</u>
legislators retirement plan	5.0%
judges retirement plan	<del>4.0</del> 3.0
Fairmont Police Relief Association	3.5
Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0

(2) age-related future salary increase age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

<u>plan</u>	<u>future salary increase assumption</u>
<del>correctional state employees retirement plan</del>	<del>assumption D</del>
<del>State Patrol retirement plan</del>	<del>assumption C</del>



local government correctional service retirement plan  
 Duluth teachers retirement plan  
 St. Paul teachers retirement plan

assumption C  
 assumption A  
 assumption B

The select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. ~~The designated select period is five years and the designated integer is five for the general state employees retirement plan.~~ The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) ~~0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, and the local government correctional service retirement plan;~~ (2) 0.6 percent for the general state employees retirement plan; and (3) ~~(2)~~ 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.

The ultimate future salary increase assumption is:

age	A	B	C	D
16	8.00%	6.90%	<del>7.7500%</del> <u>9.00%</u>	<del>7.2500%</del>
17	8.00	6.90	<del>7.7500</del> <u>9.00</u>	<del>7.2500</del>
18	8.00	6.90	<del>7.7500</del> <u>9.00</u>	<del>7.2500</del>
19	8.00	6.90	<del>7.7500</del> <u>9.00</u>	<del>7.2500</del>
20	6.90	6.90	<del>7.7500</del> <u>9.00</u>	<del>7.2500</del>
21	6.90	6.90	<del>7.1454</del> <u>8.75</u>	<del>6.6454</del>
22	6.90	6.90	<del>7.0725</del> <u>8.50</u>	<del>6.5725</del>
23	6.85	6.85	<del>7.0544</del> <u>8.25</u>	<del>6.5544</del>
24	6.80	6.80	<del>7.0363</del> <u>8.00</u>	<del>6.5363</del>
25	6.75	6.75	<del>7.0000</del> <u>7.75</u>	<del>6.5000</del>
26	6.70	6.70	<del>7.0000</del> <u>7.50</u>	<del>6.5000</del>
27	6.65	6.65	<del>7.0000</del> <u>7.25</u>	<del>6.5000</del>
28	6.60	6.60	<del>7.0000</del> <u>7.00</u>	<del>6.5000</del>
29	6.55	6.55	<del>7.0000</del> <u>6.75</u>	<del>6.5000</del>
30	6.50	6.50	<del>7.0000</del> <u>6.75</u>	<del>6.5000</del>
31	6.45	6.45	<del>7.0000</del> <u>6.50</u>	<del>6.5000</del>
32	6.40	6.40	<del>7.0000</del> <u>6.50</u>	<del>6.5000</del>
33	6.35	6.35	<del>7.0000</del> <u>6.50</u>	<del>6.5000</del>
34	6.30	6.30	<del>7.0000</del> <u>6.25</u>	<del>6.5000</del>
35	6.25	6.25	<del>7.0000</del> <u>6.25</u>	<del>6.5000</del>
36	6.20	6.20	<del>6.9019</del> <u>6.00</u>	<del>6.4019</del>
37	6.15	6.15	<del>6.8074</del> <u>6.00</u>	<del>6.3074</del>
38	6.10	6.10	<del>6.7125</del> <u>6.00</u>	<del>6.2125</del>

39	6.05	6.05	<del>6.6054</del> <u>5.75</u>	6.1054
40	6.00	6.00	<del>6.5000</del> <u>5.75</u>	6.0000
41	5.90	5.95	<del>6.3540</del> <u>5.75</u>	5.8540
42	5.80	5.90	<del>6.2087</del> <u>5.50</u>	5.7087
43	5.70	5.85	<del>6.0622</del> <u>5.25</u>	5.5622
44	5.60	5.80	<del>5.9048</del> <u>5.25</u>	5.4078
45	5.50	5.75	<del>5.7500</del> <u>5.00</u>	5.2500
46	5.40	5.70	<del>5.6940</del> <u>5.00</u>	5.1940
47	5.30	5.65	<del>5.6375</del> <u>5.00</u>	5.1375
48	5.20	5.60	<del>5.5822</del> <u>5.00</u>	5.0822
49	5.10	5.55	<del>5.5404</del> <u>5.00</u>	5.0404
50	5.00	5.50	<del>5.5000</del> <u>5.00</u>	5.0000
51	4.90	5.45	<del>5.4384</del> <u>5.00</u>	4.9384
52	4.80	5.40	<del>5.3776</del> <u>5.00</u>	4.8776
53	4.70	5.35	<del>5.3167</del> <u>5.00</u>	4.8167
54	4.60	5.30	<del>5.2826</del> <u>5.00</u>	4.7826
55	4.50	5.25	<del>5.2500</del> <u>4.75</u>	4.7500
56	4.40	5.20	<del>5.2500</del> <u>4.75</u>	4.7500
57	4.30	5.15	<del>5.2500</del> <u>4.50</u>	4.7500
58	4.20	5.10	<del>5.2500</del> <u>4.25</u>	4.7500
59	4.10	5.05	<del>5.2500</del> <u>4.25</u>	4.7500
60	4.00	5.00	<del>5.2500</del> <u>4.25</u>	4.7500
61	3.90	5.00	<del>5.2500</del> <u>4.25</u>	4.7500
62	3.80	5.00	<del>5.2500</del> <u>4.25</u>	4.7500
63	3.70	5.00	<del>5.2500</del> <u>4.25</u>	4.7500
64	3.60	5.00	<del>5.2500</del> <u>4.25</u>	4.7500
65	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500
66	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500
67	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500
68	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500
69	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500
70	3.50	5.00	<del>5.2500</del> <u>4.00</u>	4.7500

## (3) service-related ultimate future salary increase assumption

general state employees retirement plan of the Minnesota State Retirement System	assumption A
general employees retirement plan of the Public Employees Retirement Association	assumption B
Teachers Retirement Association	assumption C
public employees police and fire retirement plan	assumption D
<u>State Patrol retirement plan</u>	<u>assumption E</u>
<u>correctional state employees retirement plan of the Minnesota State Retirement System</u>	<u>assumption F</u>

service length	A	B	C	D	E	F
1	<del>10.75</del> <u>10.50</u> %	<del>12.25</del> <u>12.03</u> %	12.00%	13.00%	<u>8.00</u> %	<u>6.00</u> %
2	<del>8.35</del> <u>8.10</u>	<del>9.15</del> <u>8.90</u>	9.00	11.00	<u>7.50</u>	<u>5.85</u>
3	<del>7.15</del> <u>6.90</u>	<del>7.75</del> <u>7.46</u>	8.00	9.00	<u>7.00</u>	<u>5.70</u>

4	<del>6.45</del> <u>6.20</u>	<del>6.85</del> <u>6.58</u>	7.50	8.00	<del>6.75</del>	<u>5.55</u>
5	<del>5.95</del> <u>5.70</u>	<del>6.25</del> <u>5.97</u>	7.25	6.50	<del>6.50</del>	<u>5.40</u>
6	<del>5.55</del> <u>5.30</u>	<del>5.75</del> <u>5.52</u>	7.00	6.10	<del>6.25</del>	<u>5.25</u>
7	<del>5.25</del> <u>5.00</u>	<del>5.45</del> <u>5.16</u>	6.85	5.80	<del>6.00</del>	<u>5.10</u>
8	<del>4.95</del> <u>4.70</u>	<del>5.15</del> <u>4.87</u>	6.70	5.60	<del>5.85</del>	<u>4.95</u>
9	<del>4.75</del> <u>4.50</u>	<del>4.85</del> <u>4.63</u>	6.55	5.40	<del>5.70</del>	<u>4.80</u>
10	<del>4.65</del> <u>4.40</u>	<del>4.65</del> <u>4.42</u>	6.40	5.30	<del>5.55</del>	<u>4.65</u>
11	<del>4.45</del> <u>4.20</u>	<del>4.45</del> <u>4.24</u>	6.25	5.20	<del>5.40</del>	<u>4.55</u>
12	<del>4.35</del> <u>4.10</u>	<del>4.35</del> <u>4.08</u>	6.00	5.10	<del>5.25</del>	<u>4.45</u>
13	<del>4.25</del> <u>4.00</u>	<del>4.15</del> <u>3.94</u>	5.75	5.00	<del>5.10</del>	<u>4.35</u>
14	<del>4.05</del> <u>3.80</u>	<del>4.05</del> <u>3.82</u>	5.50	4.90	<del>4.95</del>	<u>4.25</u>
15	<del>3.95</del> <u>3.70</u>	<del>3.95</del> <u>3.70</u>	5.25	4.80	<del>4.80</del>	<u>4.15</u>
16	<del>3.85</del> <u>3.60</u>	<del>3.85</del> <u>3.60</u>	5.00	4.80	<del>4.65</del>	<u>4.05</u>
17	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.51</u>	4.75	4.80	<del>4.50</del>	<u>3.95</u>
18	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	4.50	4.80	<del>4.35</del>	<u>3.85</u>
19	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	4.25	4.80	<del>4.20</del>	<u>3.75</u>
20	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	4.00	4.80	<del>4.05</del>	<u>3.75</u>
21	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.90	4.70	<del>4.00</del>	<u>3.75</u>
22	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.80	4.60	<del>4.00</del>	<u>3.75</u>
23	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.70	4.50	<del>4.00</del>	<u>3.75</u>
24	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.60	4.50	<del>4.00</del>	<u>3.75</u>
25	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>
26	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>
27	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>
28	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>
29	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>
30 or more	<del>3.75</del> <u>3.50</u>	<del>3.75</del> <u>3.50</u>	3.50	4.50	<del>4.00</del>	<u>3.75</u>

(c) ~~Before July 2, 2010~~, The actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan of the Minnesota State Retirement System	3.75%
correctional state employees retirement plan	<del>4.50</del> <u>3.75</u>
State Patrol retirement plan	<del>4.50</del> <u>3.75</u>
<del>legislators retirement plan</del>	<del>4.50</del>
judges retirement plan	<del>4.00</del> <u>3.00</u>
general employees retirement plan of the Public Employees Retirement Association	<del>3.75</del> <u>3.75</u>
public employees police and fire retirement plan	<del>3.75</del> <u>3.75</u>
local government correctional service retirement plan	<del>4.50</del> <u>3.75</u>
teachers retirement plan	<del>3.75</del> <u>3.75</u>
Duluth teachers retirement plan	<del>4.50</del> <u>4.50</u>
St. Paul teachers retirement plan	<del>5.00</del> <u>5.00</u>

(d) ~~After July 1, 2010~~, The assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

**EFFECTIVE DATE.** This section is effective June 30, 2012.

Sec. 3. Minnesota Statutes 2010, section 356.215, subdivision 11, is amended to read:

Subd. 11. **Amortization contributions.** (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation of the retirement plan must contain an exhibit for financial reporting purposes indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability and must contain an exhibit for contribution determination purposes indicating the additional contribution sufficient to amortize the unfunded actuarial accrued liability. For the retirement plans listed in subdivision 8, paragraph (c), but excluding the MERF division of the Public Employees Retirement Association and the legislators retirement plan, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared, assuming annual payroll growth at the applicable percentage rate set forth in subdivision 8, paragraph (c). For all other retirement plans and for the MERF division of the Public Employees Retirement Association and the legislators retirement plan, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any retirement plan other than the general state employees retirement plan of the Minnesota State Retirement System or a retirement plan governed by paragraph (d), (e), (f), (g), (h), (i), or (j), if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by itself or by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding is the first actuarial valuation date occurring after June 1, 2020.

(c) For any retirement plan other than the general employees retirement plan of the Public Employees Retirement Association, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by itself or by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 8 in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 8 in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 8 in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the MERF division of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(e) For the general employees retirement plan of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(f) For the Teachers Retirement Association, the established date for full funding is June 30, 2037.

(g) For the correctional state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2038.

(h) For the judges retirement plan, the established date for full funding is June 30, 2038.

(i) For the public employees police and fire retirement plan, the established date for full funding is June 30, 2038.

(j) For the St. Paul Teachers Retirement Fund Association, the established date for full funding is June 30 of the 25th year from the valuation date. In addition to other requirements of this chapter, the annual actuarial valuation must contain an exhibit indicating the funded ratio and the deficiency or sufficiency in annual contributions when comparing liabilities to the market value of the assets of the fund as of the close of the most recent fiscal year.

(k) For the general state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2040.

(l) For the retirement plans for which the annual actuarial valuation indicates an excess of valuation assets over the actuarial accrued liability, the valuation assets in excess of the actuarial accrued liability must be recognized as a reduction in the current contribution requirements by an amount equal to the amortization of the excess expressed as a level percentage of pay over a 30-year period beginning anew with each annual actuarial valuation of the plan.

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

Sec. 4. **DELAYED REPORTING DATE FOR CERTAIN QUADRENNIAL EXPERIENCE STUDIES.**

Notwithstanding any provision of Minnesota Statutes, section 356.215, subdivisions 2 and 3, paragraph (c), to the contrary, the next experience studies of the general state employees retirement plan of the Minnesota State Retirement System, the general employees retirement plan of the Public Employees Retirement Association, and the Teachers Retirement Association must cover the period of July 1, 2008, through June 30, 2014, and must be filed with the applicable entities on June 30, 2015.

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

ARTICLE 2  
CONTRIBUTION ADEQUACY REPORTING

Section 1. **[16A.106] ADEQUACY OF BUDGETED AND FORECASTED DEFINED BENEFIT PLAN RETIREMENT CONTRIBUTIONS.**

(a) On or before May 30 or the date occurring 30 days after the conclusion of the regular legislative session, whichever is later, in each odd-numbered year, the commissioner shall prepare a report to the legislature on the adequacy of the budgeted appropriations, including retirement-related state aids, and forecasted member and employer retirement contributions to meet the total calculated actuarial funding requirements of the statewide and major local defined benefit retirement plans.

(b) The total calculated actuarial funding requirements are the sum of:

(1) the normal cost;

(2) the administrative expenses as defined in section 356.20, subdivision 4, paragraph (c); and

(3) the supplemental amortization contribution requirement using the amortization target date specified in section 356.215, subdivision 11.

The total calculated actuarial funding requirements must be as determined in the most recent actuarial valuation of the retirement plan prepared by an approved actuary under section 356.215 and the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(c) The statewide and major local retirement plans are the defined benefit retirement plans listed in section 356.20, subdivision 2, clauses (1) to (6), (9), (12), (13), and (14).

(d) The report must also include as an exhibit as of the start of the most recent fiscal year, the following information for each statewide and major local retirement plan in a single comparative table:

(1) the year the retirement plan was enacted or established;

(2) the number of active members of the retirement plan;

(3) the number of retirement annuitants and retirement benefit recipients;

(4) whether or not the retirement plan supplements the federal Old Age, Survivors and Disability Insurance program;

(5) the complete schedule of accrued benefit obligations and projected benefit obligations from the latest actuarial valuation reports;

(6) whether or not the retirement plan permits the purchase of service credit for out-of-state service or time;

(7) the percentage of covered salary employer contributions;

(8) the percentage of covered salary member contributions;

(9) the amount of unfunded actuarial accrued liability calculated using the actuarial value of assets and the market value of assets;

(10) the percentage that assets, at actuarial value and at market value, represent of the actuarial accrued liability;

(11) the normal retirement age or ages;

(12) the salary base definition and the percentage of salary base benefit accrual rate per year of service credit formula for a normal retirement annuity;

(13) the amount of automatic postretirement adjustment;

(14) whether or not service credit is available for military service and any limitation on its acquisition;

(15) the vesting period for a disability benefit and the definition of a disability qualifying for a disability benefit;

(16) investment performance and interest rate actuarial assumptions;

(17) the amortization target date;

(18) four fiscal years running statistics of active retirement plan members;

(19) four fiscal years running statistics of retirement annuitants and retirement benefit recipients;

(20) four fiscal years running statistics of deferred annuitants;

(21) four fiscal years running statistics of unfunded actuarial accrued liability determined on an actuarial value of assets basis and on a market value of assets basis;

(22) four fiscal years running statistics of the percentage that assets, at actuarial value and at market value, represent of the actuarial accrued liability;

(23) four fiscal years running statistics of actuarial value of assets; and

(24) four fiscal years running statistics of market value of assets.

(e) The report under this section also must be included on the Web site of the department.

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

ARTICLE 3  
MSRS-CORRECTIONAL PLAN MEMBERSHIP CHANGES

Section 1. Minnesota Statutes 2010, section 352.91, subdivision 3c, is amended to read:

Subd. 3c. **Nursing personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota Security Hospital, or in the Minnesota sex offender program that are specified in paragraph (b) if at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner.

(b) The employment positions are as follows:

- (1) registered nurse - senior;
- (2) registered nurse;
- (3) registered nurse - principal;
- (4) licensed practical nurse 2; ~~and~~
- (5) registered nurse advance practice; and
- (6) psychiatric advance practice registered nurse.

**EFFECTIVE DATE.** (a) This section is effective retroactively from August 22, 2011.

(b) Service credit under the correctional state employees retirement plan rather than under the general state employees retirement plan for the period between August 22, 2011, and the day following enactment is contingent on the state employee and the Department of Human Services paying the difference between the applicable employee and employer contributions in the two retirement plans under Minnesota Statutes, section 352.017, subdivision 2.

Sec. 2. Minnesota Statutes 2010, section 352.91, subdivision 3d, is amended to read:

Subd. 3d. **Other correctional personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota Security Hospital specified in paragraph (b) if at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner.

(b) The employment positions are:

- (1) automotive mechanic;
- (2) baker;
- (3) central services administrative specialist, intermediate;
- (4) central services administrative specialist, principal;
- (5) chaplain;



- (6) chief cook;
- (7) clinical program therapist 1;
- (8) clinical program therapist 2;
- (9) clinical program therapist 3;
- (10) clinical program therapist 4;
- (11) cook;
- ~~(8)~~ (12) cook coordinator;
- ~~(9)~~ ~~corrections program therapist 1;~~
- ~~(10)~~ ~~corrections program therapist 2;~~
- ~~(11)~~ ~~corrections program therapist 3;~~
- ~~(12)~~ ~~corrections program therapist 4;~~
- (13) corrections inmate program coordinator;
- (14) corrections transitions program coordinator;
- (15) corrections security caseworker;
- (16) corrections security caseworker career;
- (17) corrections teaching assistant;
- (18) delivery van driver;
- (19) dentist;
- (20) electrician supervisor;
- (21) general maintenance worker lead;
- (22) general repair worker;
- (23) library/information research services specialist;
- (24) library/information research services specialist senior;
- (25) library technician;
- (26) painter lead;
- (27) plant maintenance engineer lead;

- (28) plumber supervisor;
- (29) psychologist 1;
- (30) psychologist 3;
- (31) recreation therapist;
- (32) recreation therapist coordinator;
- (33) recreation program assistant;
- (34) recreation therapist senior;
- (35) sports medicine specialist;
- (36) work therapy assistant;
- (37) work therapy program coordinator; and
- (38) work therapy technician.

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

Sec. 3. Minnesota Statutes 2010, section 352.91, subdivision 3f, is amended to read:

Subd. 3f. **Additional Department of Human Services personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions specified in paragraph (b) at the Minnesota Security Hospital or in the Minnesota sex offender program if at least 75 percent of the employee's working time is spent in direct contact with patients and the determination of this direct contact is certified to the executive director by the commissioner of human services.

(b) The employment positions are:

- (1) behavior analyst 2;
- (2) behavior analyst 3;
- (3) certified occupational therapy assistant 1;
- (4) certified occupational therapy assistant 2;
- (5) chemical dependency counselor senior;
- (6) client advocate;
- (7) clinical program therapist 3;
- (8) clinical program therapist 4;
- (9) customer services specialist principal;

- ~~(8)~~ (10) dental assistant registered;
- ~~(9)~~ (11) group supervisor;
- ~~(40)~~ (12) group supervisor assistant;
- ~~(44)~~ (13) human services support specialist;
- ~~(42)~~ (14) licensed alcohol and drug counselor;
- ~~(43)~~ (15) licensed practical nurse 1;
- ~~(44)~~ (16) management analyst 3;
- ~~(45)~~ (17) occupational therapist;
- ~~(46)~~ (18) occupational therapist, senior;
- ~~(47)~~ (19) psychologist 1;
- ~~(48)~~ (20) psychologist 2;
- ~~(49)~~ (21) psychologist 3;
- ~~(20)~~ (22) recreation program assistant;
- ~~(24)~~ (23) recreation therapist lead;
- ~~(22)~~ (24) recreation therapist senior;
- ~~(23)~~ (25) rehabilitation counselor senior;
- ~~(24)~~ (26) security supervisor;
- ~~(25)~~ (27) skills development specialist;
- ~~(26)~~ (28) social worker senior;
- ~~(27)~~ (29) social worker specialist;
- ~~(28)~~ (30) social worker specialist, senior;
- ~~(29)~~ (31) special education program assistant;
- ~~(30)~~ (32) speech pathology clinician;
- ~~(34)~~ (33) work therapy assistant; and
- ~~(32)~~ (34) work therapy program coordinator.

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

Sec. 4. **REPEALER.**

Minnesota Statutes 2010, section 352.91, subdivision 3e, is repealed.

**EFFECTIVE DATE.** This section is effective as of the day after the last day of the last full pay period in May 2013.

ARTICLE 4  
HEALTH CARE SAVINGS PLAN MODIFICATIONS

Section 1. Minnesota Statutes 2010, section 352.98, subdivision 3, is amended to read:

Subd. 3. **Contributions.** (a) Contributions to the plan must be defined in a personnel policy or in a collective bargaining agreement of a public employer or political subdivision. The executive director may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employer units.

(b) Contributions to the plan by or on behalf of the participant must be held in trust for reimbursement of eligible health-related expenses for participants and their dependents following termination from public employment or ~~during active employment in other circumstances set forth in the plan document.~~ The executive director shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The executive director shall make available a limited range of investment options, and each participant may direct the investment of the accumulations in the participant's account among the investment options made available by the executive director.

(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a postretirement or active employee health care savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent of the legislature to authorize the state to incur new funding obligations for the costs of retiree health care or the costs of administering retiree health care plans or accounts.

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

Sec. 2. Minnesota Statutes 2010, section 352.98, subdivision 4, is amended to read:

Subd. 4. **Reimbursement for health-related expenses.** The executive director shall reimburse participants at least quarterly for eligible health-related expenses, as allowable by federal and state law, until the participant exhausts the accumulation in the participant's account. If a participant dies prior to exhausting the participant's account balance, the participant's spouse or dependents are eligible to be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account must be paid to the participant's beneficiaries or, if none, to ~~the participant's estate~~ a living person or persons named by the personal representative of the estate. The person or persons named must use the account for reimbursement of allowable health care expenses.

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

Sec. 3. Minnesota Statutes 2010, section 352.98, subdivision 5, is amended to read:

Subd. 5. **Fees.** The executive director is authorized to charge ~~uniform~~ fees to participants to cover the ongoing cost of operating the plan. ~~Any fees not needed must revert to participant accounts or be used to reduce plan fees the following year. The fees must be deposited in an administrative fee account. On January 1, following the end of the prior fiscal year, the executive director shall estimate the amount needed to cover plan expenses, record keeping costs, and custodial fees for the new fiscal year. If the balance of the administrative fee account is in excess of this amount, the excess must revert to participant accounts, or plan fees must be reduced to eliminate the excess, or the executive director may use a combination of both approaches to eliminate the excess.~~

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

Sec. 4. Minnesota Statutes 2010, section 352.98, subdivision 8, is amended to read:

Subd. 8. **Exemption from process.** Assets in a ~~health care~~ health care savings plan account described in this section must be used for the reimbursement of ~~health care~~ health care expenses and are not assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518A.53.

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

ARTICLE 5  
MSRS-UNCLASSIFIED RETIREMENT PROGRAM MODIFICATIONS

Section 1. Minnesota Statutes 2010, section 352D.02, subdivision 3, is amended to read:

Subd. 3. **Transfer to general employees retirement plan.** (a) ~~If permitted under paragraph (b),~~ an employee referred to in subdivision 1, paragraph (c), clauses (2) to (4), (6) to (14), and (16) to (18), who is credited with shares in the unclassified program, ~~and who has credit for allowable service, not later than one month following the termination of covered employment,~~ may elect to terminate participation in the unclassified program and be covered by the general employees retirement plan ~~by filing a written election with the executive director.~~

(b) An employee specified in paragraph (a) is permitted to terminate participation in the unclassified program and be covered by the general employees retirement plan if the employee:

(1) was employed before July 1, 2010, and has at least ten years of allowable service as of the date of the election; or if the employee

(2) was first employed after June 30, 2010, and has no more than seven years of allowable service as of the date of the election.

The election must be in writing on a form provided by the executive director, and can be made no later than one month following the termination of covered employment.

~~(b)~~ (c) If the transfer election is made, the executive director shall ~~then~~ redeem the employee's total shares and shall credit to the employee's account in the general employees retirement plan the amount of contributions that would have been ~~so~~ credited had the employee been covered by the general employees retirement plan during the employee's entire covered employment ~~or elective state service.~~ The balance of money ~~so~~ redeemed and not credited to the employee's account must be transferred to the general employees retirement plan, except that the executive director must determine:

(1) the employee ~~contribution~~ contributions paid to the unclassified program must be compared to; and

(2) the employee contributions that would have been paid to the general employees retirement plan for the comparable period, if the individual had been covered by that plan.

If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general employees retirement plan coverage or before the effective date of the annuity, whichever is sooner.

~~(c)~~ (d) An election under paragraph ~~(a)~~ (b) to transfer coverage to the general employees retirement plan is irrevocable during any period of covered employment.

~~(d)~~ (e) A person referenced in subdivision 1, paragraph (c), clause (1), (5), or (15), who is credited with employee shares in the unclassified program is not permitted to terminate participation in the unclassified program and be covered by the general employees retirement plan.

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

ARTICLE 6  
PERA-ADMINISTERED RETIREMENT PLAN MODIFICATIONS

Section 1. Minnesota Statutes 2011 Supplement, section 353.01, subdivision 16, is amended to read:

Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee deductions were withheld from salary and contributions were made at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under sections 353.27, subdivision 12, and 353.35;

(3) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(4) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(5) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary, excluding overtime pay, that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(7) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary or seasonal layoff;

(8) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service with the same governmental subdivision upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service must be credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary, excluding overtime pay, during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate, excluding overtime pay, during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 30 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under ~~subdivision 40~~ section 353.0162.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association under chapter 353A or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "allowable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes. For an active member who was an active member of the former Minneapolis Firefighters Relief Association on the day prior to the effective date of consolidation under Laws 2011,

First Special Session chapter 8, article 6, section 19, "allowable service" is the period of service credited by the Minneapolis Firefighters Relief Association as reflected in the transferred records of the association up to the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 6, section 19, and the period of service credited under paragraph (a), clause (1), after the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 6, section 19. For an active member who was an active member of the former Minneapolis Police Relief Association on the day prior to the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19, "allowable service" is the period of service credited by the Minneapolis Police Relief Association as reflected in the transferred records of the association up to the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19, and the period of service credited under paragraph (a), clause (1), after the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19.

(e) MS 2002 [Expired]

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

Sec. 2. Minnesota Statutes 2010, section 353.01, subdivision 47, is amended to read:

Subd. 47. **Vesting.** (a) "Vesting" means obtaining a nonforfeitable entitlement to an annuity or benefit from a retirement plan administered by the Public Employees Retirement Association by having credit for sufficient allowable service under paragraph (b) or (c), whichever applies.

(b) For purposes of qualifying for an annuity or benefit as a basic or coordinated plan member of the general employees retirement plan of the Public Employees Retirement Association:

(1) a ~~member~~ public employee who first became a ~~public employee member~~ before July 1, 2010, is vested when the person has accrued credit for not less than three years of allowable service as defined under subdivision 16; and

(2) a ~~member~~ public employee who first becomes a ~~public employee member~~ after June 30, 2010, is vested when the person has accrued credit for not less than five years of allowable service as defined under subdivision 16.

(c) For purposes of qualifying for an annuity or benefit as a member of the police and fire plan or a member of the local government correctional employees retirement plan:

(1) a ~~member~~ public employee who first became a ~~public employee member~~ before July 1, 2010, is vested when the person has accrued credit for not less than three years of allowable service as defined under subdivision 16; and

(2) a ~~member~~ public employee who first becomes a ~~public employee member~~ after June 30, 2010, is vested at the following percentages when the person has accrued credited allowable service as defined under subdivision 16, as follows:

(i) 50 percent after five years;

(ii) 60 percent after six years;

(iii) 70 percent after seven years;

(iv) 80 percent after eight years;

(v) 90 percent after nine years; and

(vi) 100 percent after ten years.

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



Sec. 3. Minnesota Statutes 2010, section 353.50, subdivision 7, is amended to read:

Subd. 7. **MERF division account contributions.** (a) After June 30, 2010, the member and employer contributions to the MERF division account are governed by this subdivision.

(b) An active member covered by the MERF division must make an employee contribution of 9.75 percent of the total salary of the member as defined in section 353.01, subdivision 10. The employee contribution must be made by payroll deduction by the member's employing unit under section 353.27, subdivision 4, and is subject to the provisions of section 353.27, subdivisions 7, 7a, 7b, 12, 12a, and 12b.

(c) The employer regular contribution to the MERF division account with respect to an active MERF division member is 9.75 percent of the total salary of the member as defined in section 353.01, subdivision 10.

(d) The employer additional contribution to the MERF division account with respect to an active member of the MERF division is 2.68 percent of the total salary of the member as defined in section 353.01, subdivision 10, plus the employing unit's share of \$3,900,000 that the employing unit paid or is payable to the former Minneapolis Employees Retirement Fund under Minnesota Statutes 2008, section 422A.101, subdivision 1a, 2, or 2a, during calendar year 2009, as was certified by the former executive director of the former Minneapolis Employees Retirement Fund.

(e) Annually after June 30, 2012, the employer supplemental contribution to the MERF division account by the city of Minneapolis, Special School District No. 1, Minneapolis, a Minneapolis-owned public utility, improvement, or municipal activity, Hennepin county, the Metropolitan Council, the Metropolitan Airports Commission, and the Minnesota State Colleges and Universities system is the larger of the following:

(1) the amount by which the total actuarial required contribution determined under section 356.215 by the approved actuary retained by the Public Employees Retirement Association in the most recent actuarial valuation of the MERF division and based on a June 30, 2031, amortization date, after subtracting the contributions under paragraphs (b), (c), and (d), exceeds \$22,750,000 or \$24,000,000, whichever applies; or

(2) the amount of \$27,000,000, but the total supplemental contribution amount plus the contributions under paragraphs (c) and (d) may not exceed \$34,000,000. Each employing unit's share of the total employer supplemental contribution amount is equal to the applicable portion specified in paragraph ~~(g)~~ (h). The initial total actuarial required contribution after June 30, 2012, must be calculated using the mortality assumption change recommended on September 30, 2009, for the Minneapolis Employees Retirement Fund by the approved consulting actuary retained by the Minneapolis Employees Retirement Fund board.

(f) Before January 31, each employing unit must be invoiced for its share of the total employer supplemental contribution amount under paragraph (e). The amount is payable by the employing unit in two parts. The first half of the amount due is payable on or before the July 31 following the date of the invoice, and the second half of the amount due is payable on or before December 15. Each invoice must be based on the actuarial valuation report prepared under section 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement as of the valuation date occurring 18 months earlier.

~~(g)~~ (g) Notwithstanding any provision of paragraph (c), (d), or (e) to the contrary, as of August 1 annually, if the amount of the retirement annuities and benefits paid from the MERF division account during the preceding fiscal year, multiplied by the factor of 1.035, exceeds the market value of the assets of the MERF division account on the preceding June 30, plus state aid of \$9,000,000, \$22,750,000, or \$24,000,000, whichever applies, plus the amounts payable under paragraphs (b), (c), (d), and (e) during the preceding fiscal year, multiplied by the factor of 1.035, the balance calculated is a special additional employer contribution. The special additional employer contribution under this paragraph is payable in addition to any employer contribution required under paragraphs (c), (d), and (e), and is payable on or before the following June 30. The special additional employer contribution under this paragraph must be allocated as specified in paragraph ~~(g)~~ (h).

~~(g)~~ (h) The employer supplemental contribution under paragraph (e) or the special additional employer contribution under paragraph ~~(f)~~ (g) must be allocated between the city of Minneapolis, Special School District No. 1, Minneapolis, any Minneapolis-owned public utility, improvement, or municipal activity, the Minnesota State Colleges and Universities system, Hennepin County, the Metropolitan Council, and the Metropolitan Airports Commission in proportion to their share of the actuarial accrued liability of the former Minneapolis Employees Retirement Fund as of July 1, 2009, as calculated by the approved actuary retained under section 356.214 as part of the actuarial valuation prepared as of July 1, 2009, under section 356.215 and the Standards for Actuarial Work adopted by the Legislative Commission on Pensions and Retirement.

~~(h)~~ (i) The employer contributions under paragraphs (c), (d), ~~and (e)~~ , and (g) must be paid as provided in section 353.28.

~~(i)~~ (j) Contributions under this subdivision are subject to the provisions of section 353.27, subdivisions 4, 7, 7a, 7b, 11, 12, 12a, 12b, 13, and 14.

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

Sec. 4. Minnesota Statutes 2010, section 353.656, subdivision 2, is amended to read:

Subd. 2. **Benefits paid under workers' compensation law.** ~~(a) If a member, as described in subdivision 1, is injured under circumstances which entitle the member to receive benefits under the~~ becomes disabled and receives a disability benefit as specified in this section and is also entitled to receive lump sum or periodic benefits under workers' compensation law, the member shall receive the same benefits as provided in subdivision 1, with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts, other than those amounts excluded under paragraph (b), paid to the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant if the total of laws, the single life annuity actuarial equivalent disability benefit amount and the workers' compensation ~~benefit exceeds:~~ amount must be added. The computation must exclude any attorney fees paid by the disabilitant as authorized under applicable workers' compensation laws. The computation must also exclude permanent partial disability payments provided under section 176.101, subdivision 2a, and retraining payments under section 176.102, subdivision 11, if the permanent partial disability or retraining payments are reported to the executive director in a manner specified by the executive director.

(b) The equivalent salary is the amount determined under clause (1) or (2), whichever is greater:

(1) the salary the disabled member received as of the date of the disability; or

(2) the salary currently payable for the same employment position or ~~an employment position~~ substantially similar to the one the person held as of the date of the disability, whichever is greater. The disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2) positions in the applicable government subdivision.

~~(b) Permanent partial disability payments provided for in section 176.101, subdivision 2a, and retraining payments provided for in section 176.102, subdivision 11, must not be offset from disability payments due under paragraph (a) if the amounts of the permanent partial or retraining payments are reported to the executive director in a manner specified by the executive director.~~

(c) If the amount determined under paragraph (a) exceeds the equivalent salary determined under paragraph (b), the disability benefit amount must be reduced to that amount which, when added to the workers' compensation benefits, equals the equivalent salary.

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

Sec. 5. **PERA-ADMINISTERED RETIREMENT PLANS; STUDY OF UPDATED MEMBERSHIP WAGE THRESHOLD FIGURE.**

(a) The Public Employees Retirement Association shall: (1) identify the options for revising the membership threshold salary under Minnesota Statutes, section 353.01, subdivisions 2a and 2b, for membership in a retirement plan administered by the association; (2) determine the actuarial impact on the retirement plans administered by the association, the financial impact on participating employers, and the financial impact on prospective public employees of each option; and (3) formulate the recommendations for structuring each identified option.

(b) The Public Employees Retirement Association shall report its findings and recommendations of its study to the chair, the vice chair, and the executive director of the Legislative Commission on Pensions and Retirement. The report must be filed with the commission on or before February 15, 2013.

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

ARTICLE 7  
REVISIONS IN THE PERA PRIVATIZATION LAW

Section 1. Minnesota Statutes 2010, section 353F.02, subdivision 4, is amended to read:

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) Bridges Medical Services;
- (2) Cedarview Care Center in Steele County;
- ~~(2)~~ (3) the City of Cannon Falls Hospital;
- ~~(3)~~ (4) the Chris Jenson Health and Rehabilitation Center in St. Louis County;
- ~~(4)~~ (5) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;
- ~~(5)~~ (6) the Dassel Lakeside Community Home;
- ~~(6)~~ (7) the Douglas County Hospital, with respect to the Mental Health Unit;
- ~~(7)~~ (8) the Fair Oaks Lodge, Wadena;
- ~~(8)~~ (9) the Glencoe Area Health Center;
- ~~(9)~~ (10) Hutchinson Area Health Care;
- ~~(10)~~ (11) the Lakefield Nursing Home;
- ~~(11)~~ (12) the Lakeview Nursing Home in Gaylord;
- ~~(12)~~ (13) the Luverne Public Hospital;
- ~~(13)~~ (14) the Oakland Park Nursing Home;
- ~~(14)~~ (15) the RenVilla Nursing Home;

~~(45)~~ (16) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;

~~(46)~~ (17) the St. Peter Community Health Care Center;

(18) the Traverse Care Center in Traverse County;

~~(47)~~ (19) the Waconia-Ridgeview Medical Center;

~~(48)~~ (20) the Weiner Memorial Medical Center, Inc.;

~~(49)~~ (21) the Wheaton Community Hospital; and

~~(20)~~ (22) the Worthington Regional Hospital.

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

Sec. 2. Minnesota Statutes 2010, section 353F.04, subdivision 1, is amended to read:

Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a terminated medical facility or other public employing unit employee is subject to augmentation under section 353.71, subdivision 2, of the edition of Minnesota Statutes published in the year in which the privatization occurred, except that the rate of augmentation is as specified in ~~paragraph (b) or (c), whichever is applicable~~ this subdivision.

(b) This paragraph applies if the legislation adding the medical facility or other employing unit to section 353F.02, subdivision 4 or 5, as applicable, was enacted before July 26, 2005, and became effective before January 1, 2008, for the Hutchinson Area Health Care or before January 1, 2007, for all other medical facilities and all other employing units. For a terminated medical facility or other public employing unit employee, the augmentation rate is 5.5 percent compounded annually until January 1 following the year in which the person attains age 55. From that date to the effective date of retirement, the augmentation rate is 7.5 percent compounded annually.

(c) If paragraph (b) is not applicable, and if the effective date of the privatization is before January 1, 2011, the augmentation rate is four percent compounded annually until January 1, following the year in which the person attains age 55. From that date to the effective date of retirement, the augmentation rate is six percent compounded annually.

(d) If the effective date of the privatization is after December 31, 2010, the applicable augmentation rate depends on the result of computations specified in section 353F.025, subdivision 1. If those computations indicate no loss or a net gain to the fund of the general employees retirement plan of the Public Employees Retirement Association, the augmentation rate is 2.0 percent compounded annually until the effective date of retirement. If the computations under that subdivision indicate a net loss to the fund if a 2.0 percent augmentation rate is used, but a net gain or no loss if a 1.0 percent rate is used, then the augmentation rate is 1.0 percent compounded annually until the effective date of retirement.

(e) The term "effective date of the privatization" as used in this subdivision means the "effective date" as defined in section 353F.02, subdivision 3.

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

Sec. 3. Minnesota Statutes 2010, section 353F.07, is amended to read:

**353F.07 EFFECT ON REFUND.**

Notwithstanding any provision of chapter 353 to the contrary, terminated medical facility or other public employing unit employees may receive a refund of employee accumulated contributions plus interest ~~at the rate of six percent per year compounded annually as provided in accordance with~~ section 353.34, subdivision 2, ~~of the edition of Minnesota Statutes published in the year in which the privatization occurred,~~ at any time after the transfer of employment to the successor employer ~~to~~ of the terminated medical facility or other public employing unit. If a terminated medical facility or other public employing unit employee has received a refund from a pension plan ~~enumerated~~ listed in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those ~~enumerated~~ listed plans and complies with section 356.30, subdivision 2.

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

ARTICLE 8

TRA ADMINISTRATIVE CHANGES AND RELATED MODIFICATIONS

Section 1. Minnesota Statutes 2010, section 16A.06, subdivision 9, is amended to read:

Subd. 9. **First class city teacher retirement funds aids reporting.** Each year, on or before April 15, the commissioner of management and budget shall report to the chairs of the senate Finance Committee and the house of representatives Ways and Means Committee on expenditures for state aids to the ~~Minneapolis and Saint St. Paul Teacher Retirement Fund associations Association, and to the Teachers Retirement Association on behalf of the merged Minneapolis Teachers Retirement Fund Association,~~ under sections ~~354.435,~~ 354A.12, and 423A.02, subdivision 3. This report shall include the amounts expended in the most recent fiscal year and estimates of expected expenditures for the current and next fiscal year.

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

Sec. 2. Minnesota Statutes 2010, section 126C.41, subdivision 3, is amended to read:

Subd. 3. **Retirement levies.** (a) In 1991 and each year thereafter, a district to which this subdivision applies may levy an additional amount required for contributions to the general employees retirement plan of the Public Employees Retirement Association as the successor of the Minneapolis Employees Retirement Fund as a result of the maximum dollar amount limitation on state contributions to that plan imposed under section 353.505. The additional levy must not exceed the most recent amount certified by the executive director of the Public Employees Retirement Association as the district's share of the contribution requirement in excess of the maximum state contribution under section 353.505.

(b) For taxes payable in 1994 and thereafter, Special School District No. 1, Minneapolis, and Independent School District No. 625, St. Paul, may levy for the increase in the employer retirement fund contributions, under Laws 1992, chapter 598, article 5, section 1.

(c) If the employer retirement fund contributions under section 354A.12, subdivision 2a, are increased for fiscal year 1994 or later fiscal years, Special School District No. 1, Minneapolis, and Independent School District No. 625, St. Paul, may levy in payable 1994 or later an amount equal to the amount derived by applying the net increase in the employer retirement fund contribution rate of the respective teacher retirement fund association between fiscal year 1993 and the fiscal year beginning in the year after the levy is certified to the total covered payroll of the applicable teacher retirement fund association. If an applicable school district levies under this paragraph, they may not levy under paragraph (b).

(d) In addition to the levy authorized under paragraph (c), Special School District No. 1, Minneapolis, may also levy payable in 1997 or later an amount equal to the contributions under section ~~423A.02~~ 354.435, subdivision ~~3~~ 2, and may also levy in payable 1994 or later an amount equal to the state aid contribution under section ~~354A.12~~ 354.435, subdivision ~~3~~ 1. Independent School District No. 625, St. Paul, may levy payable in 1997 or later an amount equal to the supplemental contributions under section 423A.02, subdivision 3.

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

**Sec. 3. [354.435] ADDITIONAL CONTRIBUTIONS BY SPECIAL SCHOOL DISTRICT NO. 1 AND CITY OF MINNEAPOLIS.**

**Subdivision 1. Special direct state matching aid.** (a) Special School District No. 1, Minneapolis, and the city of Minneapolis must make additional employer contributions to the Teachers Retirement Association in the amounts specified in paragraph (b). These contributions can be made from any available source. If made in whole or in part by a levy, the levy may be classified as that of a special taxing district for purposes of sections 275.065 and 276.04, and for all other property tax purposes.

(b) Each fiscal year \$1,250,000 must be contributed by Special School District No. 1, Minneapolis, and \$1,250,000 must be contributed by the city of Minneapolis to the Teachers Retirement Association and the state shall match this total by paying to the Teachers Retirement Association \$2,500,000. The superintendent of Special School District No. 1, Minneapolis, the mayor of the city of Minneapolis, and the executive director of the Teachers Retirement Association shall jointly certify to the commissioner of management and budget the total amount that has been contributed by Special School District No. 1, Minneapolis, and by the city of Minneapolis to the Teachers Retirement Association. Any certification to the commissioner of management and budget must be made quarterly. If the certifications for a fiscal year exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Teachers Retirement Association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of management and budget.

(c) The commissioner of management and budget may prescribe the form of the certifications required under paragraph (b).

**Subd. 2. Additional contributions.** In addition to any other required contributions, on or before June 30 each fiscal year, Special School District No. 1, Minneapolis, and the city of Minneapolis must each make an additional contribution to the Teachers Retirement Association of \$1,000,000.

**Subd. 3. Procedure for recovery of deficient or delinquent amounts.** If Special School District No. 1, Minneapolis, or the city of Minneapolis fails to pay the full amount required under subdivision 1, paragraph (b), or 2, in a timely manner, the executive director is authorized to use section 354.512, or any other process in law to ensure full payment is obtained.

**Subd. 4. Expiration.** This section expires effective the first day of the fiscal year next following the fiscal year in which the Teachers Retirement Association has no unfunded actuarial accrued liability as determined by the actuarial valuation prepared under section 356.215 by the approved actuary retained under section 356.214.

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

Sec. 4. Minnesota Statutes 2010, section 354.51, subdivision 5, is amended to read:

Subd. 5. **Payment of shortages.** (a) Except as provided in paragraph (b), in the event that full required member contributions are not deducted from the salary of a teacher, payment must be made as follows:

(1) Payment of shortages in member deductions on salary earned after June 30, 1957, and before July 1, 1981, may be made any time before retirement. Payment must include interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest must be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member must be prorated under section 354.05, subdivision 25, clause (3).

(2) Payment of shortages in member deductions on salary earned after June 30, 1981, are the sole obligation of the employing unit and are payable by the employing unit upon notification by the executive director of the shortage with interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest must be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for the shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, and if the executive director does not use the recovery procedure in section 354.512, the executive director shall certify the amount of the shortage ~~payment~~ to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, ~~or to the commissioner of management and budget, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.~~

(3) Payment may not be made for shortages in member deductions on salary earned before July 1, 1957, for shortages in member deductions on salary paid or payable under paragraph (b), or for shortages in member deductions for persons employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution that exceeds the most recent 36 months.

(b) For a person who is employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution, upon the person's election under section 354B.21 of retirement coverage under this chapter, the shortage in member deductions on the salary for employment by the Minnesota State Colleges and Universities system institution of less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution for the most recent 36 months and the associated employer contributions must be paid by the Minnesota State Colleges and Universities system institution, plus annual compound interest at the rate of 8.5 percent from the end of the fiscal year in which the shortage occurred to the end of the month in which the Teachers Retirement Association coverage election is made. ~~If the shortage payment is not made by the institution within 60 days of notification, the executive director shall certify the amount of the shortage payment to the commissioner of management and budget, who shall deduct the amount from any state appropriation to the system.~~ An individual electing coverage under this paragraph shall repay the amount of the shortage in member deductions, plus interest, through deduction from salary or compensation payments within the first year of employment after the election under section 354B.21, subject to the limitations in section 16D.16. The Minnesota State Colleges and Universities system may use any means available to recover amounts which were not recovered through deductions from salary or compensation payments. No payment of the shortage in member deductions under this paragraph may be made for a period longer than the most recent 36 months.

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

Sec. 5. **[354.512] RECOVERY OF DEFICIENCIES.**

In addition to any other remedies permitted under law, if an employing unit or other entity required by law to make any form of payment to the Teachers Retirement Association fails to make full payment within 60 days of notification, the executive director is authorized to certify the amount of deficiency to the commissioner of management and budget, who shall deduct the amount from any state aid or appropriation applicable to the employing unit or entity, and transmit the withheld aid or appropriation to the executive director for deposit in the fund.

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

Sec. 6. Minnesota Statutes 2010, section 354A.12, subdivision 3c, is amended to read:

Subd. 3c. **Termination of supplemental contributions and direct matching and state aid.** ~~The supplemental contributions payable to the Minneapolis Teachers Retirement Fund Association by Special School District No. 1 and the city of Minneapolis under section 423A.02, subdivision 3, must be paid to the Teachers Retirement Association and must continue until the current assets of the fund equal or exceed the actuarial accrued liability of the fund as determined in the most recent actuarial report for the fund by the actuary retained under section 356.214, or 2037, whichever occurs earlier.~~ The supplemental contributions payable to the St. Paul Teachers Retirement Fund Association by Independent School District No. 625 under section 423A.02, subdivision 3, or the direct state aid under subdivision 3a to the St. Paul Teachers Retirement Fund Association must continue until the current assets of the fund equal or exceed the actuarial accrued liability of the fund as determined in the most recent actuarial report for the fund by the actuary retained under section 356.214 or until 2037, whichever occurs earlier.

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

Sec. 7. Minnesota Statutes 2011 Supplement, section 356.215, subdivision 8, is amended to read:

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
Fairmont Police Relief Association	5.0	5.0
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0



(b) Before July 1, 2010, the actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
legislators retirement plan	5.0%
judges retirement plan	4.0
Fairmont Police Relief Association	3.5
Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0

(2) age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

plan	future salary increase assumption
correctional state employees retirement plan	assumption D
State Patrol retirement plan	assumption C
local government correctional service retirement plan	assumption C
Duluth teachers retirement plan	assumption A
St. Paul teachers retirement plan	assumption B

For plans other than the Duluth teachers retirement plan, the select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. ~~The designated select period is five years and the designated integer is five for the general state employees retirement plan. The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, and the local government correctional service retirement plan; and (2) 0.6 percent for the general state employees retirement plan; and (3) 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.~~

The ultimate future salary increase assumption is:

age	A	B	C	D
16	8.00%	6.90%	7.7500%	7.2500%
17	8.00	6.90	7.7500	7.2500
18	8.00	6.90	7.7500	7.2500
19	8.00	6.90	7.7500	7.2500

20	6.90	6.90	7.7500	7.2500
21	6.90	6.90	7.1454	6.6454
22	6.90	6.90	7.0725	6.5725
23	6.85	6.85	7.0544	6.5544
24	6.80	6.80	7.0363	6.5363
25	6.75	6.75	7.0000	6.5000
26	6.70	6.70	7.0000	6.5000
27	6.65	6.65	7.0000	6.5000
28	6.60	6.60	7.0000	6.5000
29	6.55	6.55	7.0000	6.5000
30	6.50	6.50	7.0000	6.5000
31	6.45	6.45	7.0000	6.5000
32	6.40	6.40	7.0000	6.5000
33	6.35	6.35	7.0000	6.5000
34	6.30	6.30	7.0000	6.5000
35	6.25	6.25	7.0000	6.5000
36	6.20	6.20	6.9019	6.4019
37	6.15	6.15	6.8074	6.3074
38	6.10	6.10	6.7125	6.2125
39	6.05	6.05	6.6054	6.1054
40	6.00	6.00	6.5000	6.0000
41	5.90	5.95	6.3540	5.8540
42	5.80	5.90	6.2087	5.7087
43	5.70	5.85	6.0622	5.5622
44	5.60	5.80	5.9048	5.4078
45	5.50	5.75	5.7500	5.2500
46	5.40	5.70	5.6940	5.1940
47	5.30	5.65	5.6375	5.1375
48	5.20	5.60	5.5822	5.0822
49	5.10	5.55	5.5404	5.0404
50	5.00	5.50	5.5000	5.0000
51	4.90	5.45	5.4384	4.9384
52	4.80	5.40	5.3776	4.8776
53	4.70	5.35	5.3167	4.8167
54	4.60	5.30	5.2826	4.7826
55	4.50	5.25	5.2500	4.7500
56	4.40	5.20	5.2500	4.7500
57	4.30	5.15	5.2500	4.7500
58	4.20	5.10	5.2500	4.7500
59	4.10	5.05	5.2500	4.7500
60	4.00	5.00	5.2500	4.7500
61	3.90	5.00	5.2500	4.7500
62	3.80	5.00	5.2500	4.7500
63	3.70	5.00	5.2500	4.7500
64	3.60	5.00	5.2500	4.7500
65	3.50	5.00	5.2500	4.7500
66	3.50	5.00	5.2500	4.7500
67	3.50	5.00	5.2500	4.7500
68	3.50	5.00	5.2500	4.7500
69	3.50	5.00	5.2500	4.7500
70	3.50	5.00	5.2500	4.7500

## (3) service-related ultimate future salary increase assumption

general state employees retirement plan of the Minnesota State Retirement System				assumption A
general employees retirement plan of the Public Employees Retirement Association				assumption B
Teachers Retirement Association				assumption C
public employees police and fire retirement plan				assumption D
service length	A	B	C	D
1	10.75%	12.25%	12.00%	13.00%
2	8.35	9.15	9.00	11.00
3	7.15	7.75	8.00	9.00
4	6.45	6.85	7.50	8.00
5	5.95	6.25	7.25	6.50
6	5.55	5.75	7.00	6.10
7	5.25	5.45	6.85	5.80
8	4.95	5.15	6.70	5.60
9	4.75	4.85	6.55	5.40
10	4.65	4.65	6.40	5.30
11	4.45	4.45	6.25	5.20
12	4.35	4.35	6.00	5.10
13	4.25	4.15	5.75	5.00
14	4.05	4.05	5.50	4.90
15	3.95	3.95	5.25	4.80
16	3.85	3.85	5.00	4.80
17	3.75	3.75	4.75	4.80
18	3.75	3.75	4.50	4.80
19	3.75	3.75	4.25	4.80
20	3.75	3.75	4.00	4.80
21	3.75	3.75	3.90	4.70
22	3.75	3.75	3.80	4.60
23	3.75	3.75	3.70	4.50
24	3.75	3.75	3.60	4.50
25	3.75	3.75	3.50	4.50
26	3.75	3.75	3.50	4.50
27	3.75	3.75	3.50	4.50
28	3.75	3.75	3.50	4.50
29	3.75	3.75	3.50	4.50
30 or more	3.75	3.75	3.50	4.50

(c) Before July 2, 2010, the actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan of the Minnesota State Retirement System	3.75%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50

legislators retirement plan	4.50
judges retirement plan	4.00
general employees retirement plan of the Public Employees Retirement Association	3.75
public employees police and fire retirement plan	3.75
local government correctional service retirement plan	4.50
teachers retirement plan	3.75
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

(d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

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

Sec. 8. Minnesota Statutes 2010, section 356.415, subdivision 1d, is amended to read:

Subd. 1d. **Teachers Retirement Association annual postretirement adjustments.** (a) Retirement annuity, disability benefit, or survivor benefit recipients of the Teachers Retirement Association are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and January 1, 2012, no postretirement increase is payable;

(2) for January 1, 2013, and each successive January 1 until funding stability is restored, a postretirement increase of two percent must be applied each year, effective on January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months prior to the January 1 increase;

(3) for January 1, 2013, and each successive January 1 until funding stability is restored, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months before the January 1 increase, an annual postretirement increase of 1/12 of two percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1, ~~following the year in~~ for which the person has been retired for at least six months but less than 18 months;

(4) for each January 1 following the restoration of funding stability, a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months prior to the January 1 increase; and

(5) for each January 1 following the restoration of funding stability, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six full months before the January 1 increase, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1, ~~following the year in~~ for which the person has been retired for at least six months but less than 18 months.

(b) Funding stability is restored when the market value of assets of the Teachers Retirement Association equals or exceeds 90 percent of the actuarial accrued liabilities of the Teachers Retirement Association in the most recent prior actuarial valuation prepared under section 356.215 and the standards for actuarial work by the approved actuary retained by the Teachers Retirement Association under section 356.214.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the Teachers Retirement Association requesting that the increase not be made.

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 354.35 must be treated as the sum of a period-certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period-certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62, 65, or normal retirement age, as selected by the member at retirement, for an annuity amount payable under section 354.35. A postretirement adjustment granted on the period-certain retirement annuity must terminate when the period-certain retirement annuity terminates.

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

Sec. 9. Minnesota Statutes 2010, 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 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 50 percent of the amounts derived under this paragraph to the Teachers Retirement Association, ten percent to the Duluth Teachers Retirement Fund Association, and 40 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. 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), prior to June 30 Independent School District No. 625, St. Paul, must make contributions an additional contribution of \$800,000 each year 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) (c) Thirty percent of the difference between \$5,720,000 and the current year amortization aid 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.

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

Sec. 10. **REPEALER.**

Minnesota Statutes 2010, sections 128D.18; and 354A.12, subdivision 3b, are repealed.

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

#### ARTICLE 9 FEDERAL INTERNAL REVENUE CODE CONFORMITY PROVISIONS

Section 1. Minnesota Statutes 2010, section 356.611, subdivision 2, is amended to read:

Subd. 2. **Federal compensation limits.** (a) For members of a covered pension plan enumerated in section 356.30, subdivision 3, and of the plan established under chapter 353D, compensation in excess of the limitation specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a plan specified in that paragraph before July 1, 1995, the annual compensation limit specified in ~~Internal Revenue Code section 401(a)(17) of the Internal Revenue Code~~ on June 30, 1993, applies if that provides a greater allowable annual compensation.

(c) To the extent required by sections 3401(h) and 414(u)(12) of the federal Internal Revenue Code, an individual receiving a differential wage payment as defined in section 3401(h)(2) of the federal Internal Revenue Code from an employer shall be treated as employed by that employer, and the differential wage payment will be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the federal Internal Revenue Code.

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

Sec. 2. Minnesota Statutes 2010, section 356.611, subdivision 3, is amended to read:

Subd. 3. **Maximum benefit limitations.** ~~A member's~~ An annuitant's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the federal Internal Revenue Code, as adjusted by the United States secretary of the treasury under section 415(d) of the federal Internal Revenue Code for any applicable increases in the cost of living, including applicable increases in the cost of living after the member's termination of employment. ~~For purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. If an annuitant participated in more than one pension plan in which the employer participates, the benefits under each plan must be reduced proportionately, if necessary, to satisfy the applicable limitation.~~

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

Sec. 3. Minnesota Statutes 2010, section 356.611, subdivision 3a, is amended to read:

Subd. 3a. **Maximum annual addition limitation, defined contribution plans.** The annual additions on behalf of a member to ~~the a defined contribution plan established under chapter 352D or 353D~~ for any limitation year ~~beginning after December 31, 2001,~~ shall not exceed the ~~lesser of 100 percent of the member's compensation, as defined for purposes of applicable limitation on annual additions under section 415(c) of the federal Internal Revenue Code; or \$40,000,~~ as adjusted by the United States secretary of the treasury under section 415(d) of the federal Internal Revenue Code.

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

Sec. 4. Minnesota Statutes 2010, section 356.611, subdivision 4, is amended to read:

Subd. 4. **Compensation.** ~~(a)~~ For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year including all items of remuneration described in federal treasury regulation section 1.415 (c)-2(b) and excluding all items of remuneration described in federal treasury regulation section 1.415 (c)-2(c). Compensation for pension plan purposes for any limitation year shall not exceed the applicable federal compensation limit described in subdivision 2.

~~(b) Compensation for any period includes:~~

~~(1) any elective deferral as defined in section 402(g)(3) of the federal Internal Revenue Code;~~

~~(2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the federal Internal Revenue Code; and~~

~~(3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the federal Internal Revenue Code.~~

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

Sec. 5. Minnesota Statutes 2010, section 356.611, is amended by adding a subdivision to read:

Subd. 5. **Limitation year.** Unless otherwise specifically provided, for purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section is the calendar year or fiscal year, whichever is applicable.

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

Sec. 6. Minnesota Statutes 2010, section 356.635, subdivision 6, is amended to read:

Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

(1) an individual retirement account under section 408(a) or 408A of the federal Internal Revenue Code;

(2) an individual retirement annuity plan under section 408(b) of the federal Internal Revenue Code;

(3) an annuity plan under section 403(a) of the federal Internal Revenue Code;

(4) a qualified trust plan under section 401(a) of the federal Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(5) an annuity contract under section 403(b) of the federal Internal Revenue Code;

(6) an eligible deferred compensation plan under section 457(b) of the federal Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan; or

(7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an individual account or annuity treated as an inherited individual retirement account under section 402(c)(11) of the federal Internal Revenue Code.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal Internal Revenue Code, to a Roth individual retirement account described in section 408A of the federal Internal Revenue Code, or to a qualified ~~defined contribution~~ plan described in either section 401(a) or 403(a) of the federal Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2008.

Sec. 7. Minnesota Statutes 2010, section 356.635, subdivision 9, is amended to read:

Subd. 9. **Military service.** Contributions, benefits, including death and disability benefits under section 401(a)(37) of the federal Internal Revenue Code, and service credit with respect to qualified military service must be provided according to section 414(u) of the federal Internal Revenue Code.

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2007.

#### ARTICLE 10 AUTHORIZED PUBLIC PENSION FUND INVESTMENT REVISIONS

Section 1. Minnesota Statutes 2010, section 11A.07, subdivision 4, is amended to read:

Subd. 4. **Duties and powers.** The director, at the direction of the state board, shall:

(1) plan, direct, coordinate, and execute administrative and investment functions in conformity with the policies and directives of the state board and the requirements of this chapter and of chapter 356A;

(2) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Management and Budget;

(3) employ professional and clerical staff as necessary. Employees whose primary responsibility is to invest or manage money or employees who hold positions designated as unclassified under section 43A.08, subdivision 1a, are in the unclassified service of the state. Other employees are in the classified service. Unclassified employees who are not covered by a collective bargaining agreement are employed under the terms and conditions of the compensation plan approved under section 43A.18, subdivision 3b;

(4) report to the state board on all operations under the director's control and supervision;

(5) maintain accurate and complete records of securities transactions and official activities;

(6) establish a policy relating to the purchase and sale of securities on the basis of competitive offerings or bids. The policy is subject to board approval;



(7) cause securities acquired to be kept in the custody of the commissioner of management and budget or other depositories consistent with chapter 356A, as the state board deems appropriate;

(8) prepare and file with the director of the Legislative Reference Library, by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report must be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, money managers, and brokerage organizations and the amount of these commissions or other fees. ~~The report must contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.~~ The report must include an executive summary;

(9) include on the state board's Web site its annual report and an executive summary of its quarterly reports;

(10) require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of its investment activities;

(11) receive and expend legislative appropriations; and

(12) undertake any other activities necessary to implement the duties and powers set forth in this subdivision consistent with chapter 356A.

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

Sec. 2. Minnesota Statutes 2010, section 11A.14, subdivision 14, is amended to read:

Subd. 14. **Reports required.** As of each valuation date, or as often as the state board determines, each participant shall be informed of the number of units owned and the current value of the units. ~~Annually, the state board shall provide each participant financial statements prepared in accordance with generally accepted accounting principles.~~

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

Sec. 3. Minnesota Statutes 2010, section 11A.24, is amended to read:

#### **11A.24 AUTHORIZED INVESTMENTS.**

Subdivision 1. **Securities generally.** ~~(a) The state board shall have the authority~~ is authorized to purchase, sell, lend ~~or, and~~ exchange the ~~following~~ securities specified in this section, for funds or accounts specifically made subject to this section, including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned directly or through shares in exchange-traded or mutual funds, or as units in commingled trusts that own the securities described in subdivisions 2 to 6, subject to any limitations as specified in this section.

(b) Any agreement to lend securities must be concurrently collateralized with cash or securities with a market value of not less than 100 percent of the market value of the loaned securities at the time of the agreement. Any agreement for put and call options and futures contracts may only be entered into with a fully offsetting amount of cash or securities. Only securities authorized by this section, excluding those under subdivision 6, paragraph (a), clauses (1) to ~~(4)~~ (3), may be accepted as collateral or offsetting securities.

Subd. 2. **Government obligations.** The state board ~~may~~ is authorized to invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness ~~provided if~~ provided if the issue is backed by the full faith and credit of the issuer or if the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which the board may invest under this subdivision ~~include~~ are guaranteed or insured issues of ~~(a)~~;

(1) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; ~~(b)~~

(2) the Dominion of Canada ~~and or any of~~ its provinces, provided the principal and interest ~~is~~ are payable in United States dollars; ~~(c)~~

(3) any of the states ~~and or any of~~ their municipalities, political subdivisions, agencies or instrumentalities; ~~(d) the International Bank for Reconstruction and Development, the Inter American Development Bank, the Asian Development Bank, the African Development Bank, or~~ and

(4) any ~~other~~ United States government sponsored organization of which the United States is a member, ~~provided if~~ provided if the principal and interest ~~is~~ are payable in United States dollars.

Subd. 3. **Corporate obligations.** (a) The state board ~~may~~ is authorized to invest funds in bonds, notes, debentures, transportation equipment obligations, ~~or~~ and any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state ~~thereof~~ of the United States, or the Dominion of Canada or any Canadian province ~~thereof~~ provided that if:

(1) the principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any Canadian province ~~thereof~~ shall be are payable in United States dollars; and

(2) ~~the~~ obligations ~~shall be~~ are rated among the top four quality categories by a nationally recognized rating agency.

(b) The state board may invest in unrated corporate obligations or in corporate obligations that are not rated among the top four quality categories as provided in paragraph (a), clause (2), ~~provided that if~~:

(1) the aggregate value of these obligations ~~may~~ does not exceed five percent of the market ~~or book~~ value, ~~whichever is less~~ of the fund for which the state board is investing;

(2) the state board's participation is limited to 50 percent of a single offering subject to this paragraph; and

(3) the state board's participation is limited to 25 percent of an issuer's obligations subject to this paragraph.

Subd. 4. **Other obligations.** (a) The state board ~~may~~ is authorized to invest funds in ~~bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage securities and asset backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:~~

(1) bankers acceptances and deposit notes ~~of United States banks are limited to those~~ if issued by ~~banks~~ a United States bank that is rated in the highest four quality categories by a nationally recognized rating agency;

(2) certificates of deposit ~~are limited to those~~ if issued by ~~(i) a United States banks and savings institutions that are~~ bank or savings institution that is rated in the top four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; ~~or (ii) certificates of deposits issued by a credit unions union in amounts up to an amount within~~ the limit of the insurance coverage provided by the National Credit Union Administration;

(3) commercial paper ~~is limited to those~~ if issued by a United States ~~corporations~~ corporation or ~~their~~ its Canadian ~~subsidiaries~~ subsidiary and if rated in the highest two quality categories by a nationally recognized rating agency;

(4) mortgage securities ~~shall be~~ and asset-backed securities if rated in the top four quality categories by a nationally recognized rating agency;

(5) ~~collateral for~~ repurchase agreements and reverse repurchase agreements ~~is limited to~~ if collateralized with letters of credit ~~and~~ or securities authorized in this section;

(6) guaranteed investment contracts ~~are limited to those~~ if issued by an insurance ~~companies~~ company or banks a bank that is rated in the top four quality categories by a nationally recognized rating agency or ~~to~~ alternative guaranteed investment contracts ~~where~~ if the underlying assets comply with the requirements of this section;

(7) savings accounts ~~are limited to those~~ if fully insured by a federal ~~agencies~~ agency; and

(8) ~~asset backed securities shall be rated in the top four quality categories by a nationally recognized rating agency~~ guaranty fund certificates, surplus notes, or debentures if issued by a domestic mutual insurance company.

(b) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the state board under paragraph (a), clause (2).

(c) In addition to investments authorized by paragraph (a), clause (4), the state board ~~may~~ is authorized to purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The state board may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The state board may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the state board comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The state board may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

Subd. 5. **Corporate stocks.** The state board ~~may~~ is authorized to invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or ~~the~~ any of its states ~~thereof~~, the Dominion of Canada or any of its provinces, or any corporation listed on an exchange that is regulated by an agency of the United States or of the Canadian national government, ~~if they conform to the following provisions:~~

(a) ~~The aggregate value of corporate stock investments, as adjusted for realized profits and losses, shall not exceed 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to subdivision 6;~~

(b) ~~Investments shall~~ An investment in any corporation must not exceed five percent of the total outstanding shares of ~~any one~~ that corporation, except that the state board may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed-end mutual fund.

Subd. 5a. **Asset mix limitations.** The aggregate value of investments under subdivision 5, plus the aggregate value of all investments under subdivision 6, must not exceed 85 percent of the market value of a fund.

Subd. 6. **Other investments.** (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in paragraph (b), the state board ~~may~~ is authorized to invest funds in:

(1) ~~venture capital equity and debt~~ investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, ~~bank-sponsored~~ bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

~~(3) regional and mutual funds through bank-sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940, and closed-end mutual funds listed on an exchange regulated by a governmental agency;~~

~~(4)~~ (3) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

~~(5)~~ (4) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made ~~according to~~ under paragraph (a), clauses (1) to ~~(4)~~ (3), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), or (3), ~~or~~ (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), or (3), ~~or~~ (4); and

(4) state board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board may not engage in any activity as a limited partner which creates general liability.

(c) All financial, business, or proprietary data collected, created, received, or maintained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or ~~(4)~~ (3), are nonpublic data under section 13.02, subdivision 9. As used in this paragraph, "financial, business, or proprietary data" means data, as determined by the responsible authority for the state board, that is of a financial, business, or proprietary nature, the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. As used in this section, "business data" is data described in section 13.591, subdivision 1. Regardless of whether they could be considered financial, business, or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or ~~(4)~~ (3), are public at all times:

(1) the name and industry group classification of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

(4) the market value of the investment by the state board;

(5) the state board's internal rate of return for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years.

Subd. 7. **Appropriation.** There is annually appropriated to the state board, from the assets of the funds for which the state board invests ~~pursuant~~ relating to authorized investments under subdivision 6, ~~clause paragraph~~ (a), sums sufficient to pay the costs for the management of these ~~funds assets~~ by private management firms.

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

Sec. 4. Minnesota Statutes 2010, section 69.77, subdivision 9, is amended to read:

Subd. 9. **Local police and paid fire relief association investment authority.** (a) ~~The funds special fund of the association must be invested in securities that are authorized investments under section 356A.06, subdivision 6 or 7, whichever applies. Notwithstanding any provision of section 356A.06, subdivision 6 or 7 to the contrary, the special fund of the relief association may be additionally invested in:~~

~~(1) open end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment under section 356A.06, subdivision 7, up to 75 percent of the market value of the assets of the fund; and~~

~~(2) domestic government and corporate debt obligations that are not rated in the top four quality categories by a nationally recognized rating agency, and comparable unrated securities if the percentage of these assets does not exceed five percent of the total assets of the special fund or 15 percent of the special fund's nonequity assets, whichever is less, the special fund's participation is limited to 50 percent of a single offering of the debt obligations, and the special fund's participation is limited to 25 percent of an issuer's debt obligations that are not rated in the top four quality categories. Securities held by the association before June 2, 1989, that do not meet the requirements of this subdivision may be retained after that date if they were proper investments for the association on that date.~~

~~(b) The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify special fund assets for investment by the State Board of Investment under section 11A.17. The governing board of the association may certify general fund assets of the relief association for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall must use the formula or formulas developed by the state board under section 11A.04, clause (11).~~

(c) The governing board of the association may certify general fund assets of the relief association for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

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

Sec. 5. Minnesota Statutes 2010, section 69.775, is amended to read:

**69.775 INVESTMENTS.**

(a) The special fund assets of a relief association governed by sections 69.771 to 69.776 must be invested in securities that are authorized investments under section 356A.06, subdivision 6 or 7, whichever applies.

~~(b) Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the special fund, not including any money market mutual funds, may be invested in open end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment under section 356A.06, subdivision 7.~~

~~(c) Securities held by the associations before June 2, 1989, that do not meet the requirements of this section may be retained after that date if they were proper investments for the association on that date.~~

~~(d) The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify special fund assets for investment by the State Board of Investment under section 11A.17.~~

~~(e) The governing board of the association may certify general fund assets of the relief association for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.~~

~~(f)~~ (b) The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm ~~shall~~ must use the formula or formulas developed by the state board under section 11A.04, clause (11).

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

Sec. 6. Minnesota Statutes 2010, section 354A.08, is amended to read:

**354A.08 AUTHORIZED INVESTMENTS.**

(a) In addition to investments authorized under section 356A.06, subdivision 7, a teachers retirement fund association may receive, hold, and dispose of:

~~(1)~~ real estate or personal property acquired by it, whether the acquisition was by purchase; or any other lawful means, as provided in this chapter or in the association's articles of incorporation; ~~and,~~

~~(2) domestic government and corporate debt obligations that are not rated in the top four quality categories by a nationally recognized rating agency, and comparable unrated securities if the percentage of these assets does not exceed five percent of the total assets of the pension plan or 15 percent of the pension plan's nonequity assets, whichever is less, if the pension plan's participation is limited to 50 percent of a single offering of the debt obligations, and if the pension plan's participation is limited to 25 percent of an issuer's debt obligations that are not rated in the top four quality categories.~~

~~(b) In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust. The board may also certify assets for investment by the State Board of Investment as provided under section 11A.17.~~

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

Sec. 7. Minnesota Statutes 2010, section 356.219, subdivision 1, is amended to read:

Subdivision 1. **Report required.** (a) ~~Except as indicated in subdivision 4,~~ The State Board of Investment, on behalf of the public pension funds and programs for which it is the investment authority, and any Minnesota public pension plan that is not fully invested through the State Board of Investment, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, shall report the information specified in subdivision 3 to the state auditor. The state auditor may prescribe a form or forms for the purposes of the reporting requirements contained in this section.

(b) A local police or firefighters relief association governed by section 69.77 or sections 69.771 to 69.775 is fully invested during a given calendar year for purposes of this section if all assets of the applicable pension plan beyond sufficient cash equivalent investments to cover six months expected expenses are invested under section 11A.17. The board of any fully invested public pension plan remains responsible for submitting investment policy statements and subsequent revisions as required by subdivision 3, paragraph (a).

(c) For purposes of this section, the State Board of Investment is considered to be the investment authority for any Minnesota public pension fund required to be invested by the State Board of Investment under section 11A.23, or for any Minnesota public pension fund authorized to invest in the supplemental investment fund under section 11A.17 and which is fully invested by the State Board of Investment.

(d) This section does not apply to the following plans:

(1) the Minnesota unclassified employees retirement program under chapter 352D;

(2) the public employees defined contribution plan under chapter 353D;

(3) the individual retirement account plans under chapters 354B and 354D;

(4) the higher education supplemental retirement plan under chapter 354C;

(5) any alternative retirement benefit plan established under section 383B.914; and

(6) the University of Minnesota faculty retirement plan.

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

Sec. 8. Minnesota Statutes 2010, section 356.219, subdivision 8, is amended to read:

Subd. 8. **Timing of reports.** (a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c).

(b) For ~~the Minneapolis Teachers Retirement Fund Association,~~ the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, ~~the Minneapolis Employees Retirement Fund,~~ and the University of Minnesota faculty supplemental retirement plan, ~~and the applicable administrators for the University of Minnesota faculty retirement plan and the individual retirement account plans under chapters 354B and 354D,~~ the information required under this section must be submitted to the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

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

Sec. 9. Minnesota Statutes 2010, section 356A.01, subdivision 19, is amended to read:

Subd. 19. **Pension fund.** "Pension fund" means the assets amassed and held in a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses. For a retirement plan governed by section 69.77 or by chapter 424A, the term means the relief association special fund.

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

Sec. 10. Minnesota Statutes 2010, section 356A.06, subdivision 6, is amended to read:

Subd. 6. **Limited list of authorized investment securities.** ~~(a) Except to the extent otherwise authorized by law,~~ **Authority.** This subdivision specifies the investment authority for a limited list plan. A limited list plan is a covered pension plan ~~may invest its assets only in investment securities authorized by this subdivision if the plan that does not:~~

(1) have pension fund assets with a ~~book~~ market value in excess of \$1,000,000;

(2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisers Act of 1940, or registered as an investment advisor in accordance with sections 80A.58, and 80A.60, for the investment of at least 60 percent of its pension fund assets, calculated on ~~book~~ market value;

(3) use the services of the State Board of Investment for the investment of at least 60 percent of its pension fund assets, calculated on ~~book~~ market value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the State Board of Investment for the investment of at least 75 percent of its pension fund assets, calculated on ~~book~~ market value.

(b) **Investment agency appointment authority.** ~~securities authorized for~~ The governing board of a covered pension plan covered by this subdivision are: ~~may select and appoint investment agencies to act for or on its behalf.~~

(c) **Savings accounts; similar vehicles.** A limited list plan is authorized to invest in:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, that is insured by the National Credit Union Administration, or that is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118A.03;

(2) guaranteed investment contracts, limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this paragraph; and



~~(3) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; limited to those fully insured by federal agencies.~~

~~(3) (d) **Government-backed obligations.** A limited list plan is authorized to invest in governmental obligations as further specified in this paragraph, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by an act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that mortgages, and other evidences of indebtedness, if the issue is backed by the full faith and credit of the issuer or if the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which plans are authorized to invest under this paragraph are guaranteed or insured issues of:~~

~~(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality;~~

~~(ii) for an obligation that is a revenue bond, has been completely self supporting for the last five years; and~~

~~(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;~~

~~(1) the United States, one of its agencies, one of its instrumentalities, or an organization created and regulated by an act of Congress;~~

~~(2) the Dominion of Canada or one of its provinces if the principal and interest are payable in United States dollars;~~

~~(3) a state or one of its municipalities, political subdivisions, agencies, or instrumentalities; or~~

~~(4) any United States government-sponsored organization of which the United States is a member if the principal and interest are payable in United States dollars.~~

~~(4) (e) **Corporate obligations.** A limited list plan is authorized to invest in corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had on average annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and~~

~~(5) shares in an open end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4), transportation equipment obligations, or any other longer-term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any of its states, or the Dominion of Canada or any of its provinces if:~~

~~(1) the principal and interest are payable in United States dollars; and~~

~~(2) the obligations are rated among the top four quality categories by a nationally recognized rating agency.~~

(f) **Mutual fund authority, limited list authorized assets.** Securities authorized under paragraphs (c) to (e) may be owned directly or through shares in exchange-traded funds, or through open-end mutual funds, or as units of commingled trusts.

(g) **Extended mutual fund authority.** Notwithstanding restrictions in other paragraphs of this subdivision, a limited list plan is authorized to invest the assets of the special fund in exchange-traded funds and open-end mutual funds, if their portfolio investments comply with the type of securities authorized for investment under section 356A.06, subdivision 7, paragraphs (c) to (g). Investments under this paragraph must not exceed 75 percent of the assets of the special fund, not including any money market investments through mutual or exchange-traded funds.

(h) **Supplemental fund authority.** The governing body of a limited list plan may certify special fund assets to the State Board of Investment for investment under section 11A.17.

(i) **Assets mix restrictions.** A limited list plan must conform to the asset mix limitations specified in section 356A.06, subdivision 7.

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

Sec. 11. Minnesota Statutes 2010, section 356A.06, subdivision 7, is amended to read:

Subd. 7. **Expanded list of authorized investment securities.** ~~(a) Authority. Except to the extent otherwise authorized by law,~~ A covered pension plan not described by subdivision 6, paragraph (a), ~~is an expanded list plan and shall invest its assets only in accordance with~~ as specified in this subdivision. ~~The governing board of an expanded list plan may select and appoint investment agencies to act for or on its behalf.~~

~~(b) Securities generally; investment forms. The covered pension~~ An expanded list plan has the authority is authorized to purchase, sell, lend, or and exchange the investment securities specified in paragraphs (c) to (i) authorized under this subdivision, including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned directly or through shares in exchange-traded or mutual funds, or as units in commingled trusts ~~that own the securities described in paragraphs (c) to (i), including real estate investment trusts and insurance company commingled accounts, including separate accounts,~~ subject to any limitations specified in this subdivision.

~~(c) Government obligations. The covered pension~~ An expanded list plan may is authorized to invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness if the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph include are guaranteed or insured issues of:

(1) the United States, one of its agencies, one of its instrumentalities, or organizations an organization created and regulated by an act of Congress;

(2) the Dominion of Canada and or one of its provinces, ~~provided if~~ the principal and interest ~~is~~ are payable in United States dollars;

(3) ~~the states and their~~ a state or one of its municipalities, political subdivisions, agencies, or instrumentalities; and

(4) ~~the International Bank for Reconstruction and Development, the Inter American Development Bank, the Asian Development Bank, the African Development Bank, or any other a United States government sponsored~~ government-sponsored organization of which the United States is a member, ~~provided if~~ the principal and interest ~~is~~ are payable in United States dollars.

(d) **Investment-grade corporate obligations.** ~~The covered pension~~ An expanded list plan may is authorized to invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any ~~state thereof of its states,~~ or the Dominion of Canada or any ~~province thereof of its provinces~~ if they conform to the following provisions:

(1) the principal and interest ~~of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof must be~~ are payable in United States dollars; and

(2) ~~the~~ obligations ~~must be~~ are rated among the top four quality categories by a nationally recognized rating agency.

(e) **Below-investment-grade corporate obligations.** An expanded list plan is authorized to invest in unrated corporate obligations or in corporate obligations that are not rated among the top four quality categories by a nationally recognized rating agency if:

(1) the aggregate value of these obligations does not exceed five percent of the covered pension plan's market value;

(2) the covered pension plan's participation is limited to 50 percent of a single offering subject to this paragraph; and

(3) the covered pension plan's participation is limited to 25 percent of an issuer's obligations subject to this paragraph.

(e) (f) **Other obligations.** (1) ~~The covered pension~~ An expanded list plan may is authorized to invest funds in ~~bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage participation certificates and pools, asset-backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:~~

(i) ~~bankers acceptances and deposit notes of United States banks are limited to those if~~ issued by ~~banks~~ a United States bank that is rated in the highest four quality categories by a nationally recognized rating agency;

(ii) ~~certificates of deposit are limited to those if~~ issued by ~~(A) a United States banks and bank or savings institutions that are~~ institution rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; ~~or (B) if issued by a credit unions union in amounts up to an amount within~~ the limit of the insurance coverage provided by the National Credit Union Administration;

(iii) ~~commercial paper is limited to those if~~ issued by ~~a United States corporations corporation or their~~ its Canadian ~~subsidiaries~~ subsidiary and if rated in the highest two quality categories by a nationally recognized rating agency;

(iv) ~~mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3~~ securities and asset-backed securities if rated in the top four quality categories by a nationally recognized rating agency;

(v) ~~collateral for repurchase agreements and reverse repurchase agreements is limited to~~ if collateralized with letters of credit ~~and or~~ or securities authorized in this section;

(vi) guaranteed investment contracts ~~are limited to those~~ if issued by an insurance companies company or banks a bank that is rated in the top four quality categories by a nationally recognized rating agency or ~~to~~ alternative guaranteed investment contracts ~~where~~ if the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts ~~are limited to those~~ if fully insured by a federal agencies agency; and

(viii) ~~asset backed securities must be rated in the top four quality categories by a nationally recognized rating agency guaranty fund certificates, surplus notes, or debentures if issued by a domestic mutual insurance company.~~

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), ~~the covered pension~~ an expanded list plan may ~~is authorized to~~ purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

~~(f) (g) Corporate stocks. The covered pension~~ An expanded list plan may is authorized to invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or ~~the any of its states thereof,~~ any corporation organized under the laws of the Dominion of Canada or any of its provinces, or any corporation listed on an exchange that is regulated by an agency of the United States or of the Canadian national government, ~~if they conform to the following provisions:~~

(1) ~~the aggregate value of investments under this paragraph, plus paragraphs (g) and (k), plus equity investments under paragraphs (h), (i), and (j), as adjusted for realized gains and losses, must not exceed 85 percent of the market or book value, whichever is less, of a fund; and~~

(2) ~~investments~~ An investment in any corporation must not exceed five percent of the total outstanding shares of ~~any one that~~ corporation, except that an expanded list plan may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed mutual fund.

~~(g) Developed market foreign stocks investments. In addition to investments authorized under paragraph (f), the covered pension fund may invest in foreign stock sold on an exchange in any developed market country that is included in the Europe, Australia, and Far East Index.~~

~~(h) Commingled or mutual investments. The covered pension plan may invest in index funds or mutual funds, including index mutual funds, through bank sponsored collective funds and shares of open end investment companies registered under the Federal Investment Company Act of 1940, to the extent that these funds comply with paragraphs (e) to (j).~~

~~(i) Real estate investment trust; related investments. The covered pension plan may invest in real estate investment trusts secured by mortgages or deeds of trust and sold on an exchange, and insurance company commingled accounts, including separate accounts, of a debt or equity nature.~~

~~(j) Exchange traded funds.~~ The covered pension plan may invest funds in exchange traded funds, subject to the maximums, the requirements, and the limitations set forth in paragraphs (e) to (i), as applicable.

~~(k) (h) Other investments.~~ (1) In addition to the investments authorized in paragraphs (b) to ~~(j)~~ (g), and subject to the provisions in clause (2), ~~the covered pension an expanded list plan may~~ is authorized to invest funds in:

~~(i) venture capital equity and debt investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;~~

~~(ii) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts, through investment in limited partnerships or bank sponsored, bank-sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;~~

~~(iii) regional and mutual funds through bank sponsored collective funds and open end investment companies registered under the Federal Investment Company Act of 1940 to the extent that a fund or a portion of a fund does not qualify under paragraph (h);~~

~~(iv) (iii) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and~~

~~(v) (iv) international debt securities and emerging market equity securities.~~

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made ~~according to~~ under clause (1), ~~including allocated amounts of index and mutual funds items (i), (ii), and (iii),~~ may not exceed ~~20~~ 35 percent of the market value of the fund for which the ~~covered pension expanded list~~ plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the ~~covered pension expanded list~~ plan for investments made under clause (1), item (i), (ii), or (iii) ~~or (iv)~~ ;

(iii) ~~covered pension plan the expanded list plan's~~ participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), or (iii) ~~or (iv)~~ ; ~~and~~

(iv) ~~covered pension plan the expanded list plan's~~ participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The ~~covered pension expanded list~~ plan may not engage in any activity as a limited partner which creates general liability; ~~and~~

(v) for volunteer firefighter relief associations, emerging market equity and international debt investments authorized under clause (1), item (iv), must not exceed 15 percent of the association's special fund market value.

(i) **Supplemental plan investments.** The governing body of an expanded list plan may certify assets to the State Board of Investment for investment under section 11A.17.

(j) **Asset mix limitations.** The aggregate value of an expanded list plan's investments under paragraphs (g) and (h) and equity investments under paragraph (i), regardless of the form in which these investments are held, must not exceed 85 percent of the covered plan's market value.

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

Sec. 12. **INVESTMENT AUTHORITY TRANSITION PROVISION.**

If any investment by the State Board of Investment or any covered pension plan fund was an authorized investment under law in effect immediately before the effective date of applicable sections of this act, but is not authorized by this act, the applicable assets must be liquidated before June 30, 2013.

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

Sec. 13. **REPEALER.**

Minnesota Statutes 2010, section 356.219, subdivision 4, is repealed.

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

ARTICLE 11

LOCAL RELIEF ASSOCIATION OR CONSOLIDATION ACCOUNT MERGERS WITH PERA-P&F

Section 1. Minnesota Statutes 2011 Supplement, section 69.77, subdivision 1a, is amended to read:

Subd. 1a. **Covered retirement plans.** The provisions of this section apply to ~~the following local retirement plans:~~

~~(1) the Bloomington Firefighters Relief Association; .~~

~~(2) the Fairmont Police Relief Association; and~~

~~(3) the Virginia Fire Department Relief Association.~~

**EFFECTIVE DATE.** (a) For the Fairmont Police Relief Association, this section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.

(b) For the Virginia fire consolidation account, this section is effective on June 29, 2012, which is the effective date of merger.

Sec. 2. Minnesota Statutes 2011 Supplement, section 69.77, subdivision 4, is amended to read:

Subd. 4. **Relief association financial requirements; minimum municipal obligation.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, ~~the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association~~, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8, by that fund's amortization date as specified in paragraph (d).

(d) ~~The Virginia Fire Department Relief Association special fund amortization date is December 31, 2010. The Fairmont Police Relief Association special fund amortization date is December 31, 2020.~~ The Bloomington Fire Department Relief Association special fund amortization date is determined under section 356.216, clause (2). The amortization date specified in this paragraph supersedes any amortization date specified in any applicable special law.

(e) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, paragraph (a), clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

**EFFECTIVE DATE.** (a) ~~For the Fairmont Police Relief Association, this section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.~~

(b) ~~For the Virginia fire consolidation account, this section is effective on June 29, 2012, which is the effective date of merger.~~

Sec. 3. Minnesota Statutes 2011 Supplement, section 353.668, subdivision 4, is amended to read:

Subd. 4. **Transfer of assets; transfer of title to assets.** (a) On the effective date of the consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19, the chief administrative officer of the Minneapolis Police Relief Association shall transfer the entire assets of the special fund of the Minneapolis Police Relief Association other than the health insurance account to the public employees police and fire retirement fund at market value. Unless ineligible or inappropriate, the transfer must be in the form of investment securities and must include any accounts receivable that are determined by the State Board of Investment as being capable of being collected. An amount, in cash, must be transferred by the city of Minneapolis equal to the market value recognized

by the relief association of investment securities that are determined by the executive director of the State Board of Investment not to be in compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, 11A.23, and 11A.24 or not to be appropriate for retention in light of the established investment objectives of the State Board of Investment or of accounts receivable determined by the executive director of the State Board of Investment as being incapable of being collected. Legal and beneficial title to assets that are determined noncompliant or inappropriate securities or that are uncollectible accounts receivable are transferred to the city of Minneapolis on the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19. Any accounts payable on the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19, are an obligation of the public employees police and fire retirement fund and reduce the asset value for purposes of subdivision 6. The transferred assets must be deposited in the public employees police and fire retirement fund. The amount of the health insurance account as of the date of the consolidation must remain deposited in the financial institution retained by the former Minneapolis Police Relief Association on May 1, 2011, and that financial institution must act as the custodian of the account. The health insurance account may be transferred from the financial institution that holds the account to a successor financial institution on June 30, 2012, under the requirements of this subdivision and the terms of an agreement between the Minneapolis Police Relief Association and the successor financial institution dated December 30, 2011, that provides for the transfer. The financial institution shall perform all trustee and fiduciary duties with respect to the account as a condition to the retention of the account. The executive director of the Minneapolis Police Relief Association, prior to the effective date of consolidation, shall estimate three calendar years of the administrative expenses related to the operation of the account and shall prepay those expenses from the account to the financial institution prior to the effective date of consolidation. After the three-year prepayment period, the beneficiaries of the account are responsible for the payment of the administrative expenses related to the operation of the account.

(b) Upon the transfer of assets to the State Board of Investment under paragraph (a), legal title to those transferred assets vests with the State Board of Investment on behalf of the public employees police and fire retirement plan, and beneficial title to the transferred assets remains with the former membership of the former Minneapolis Police Relief Association.

(c) The public employees police and fire retirement plan and fund is the successor in interest to all claims for or against the Minneapolis Police Relief Association. The public employees police and fire retirement plan and fund is not liable for any claim against the Minneapolis Police Relief Association, its governing board, or its administrative staff acting in a fiduciary capacity, under chapter 356A or common law, which is founded upon a claim of a breach of fiduciary duty if the act or acts constituting the claimed breach were not undertaken in good faith. The public employees police and fire retirement plan may assert any applicable defense to any claim in any judicial or administrative proceeding that the Minneapolis Police Relief Association, its board, or its administrative staff would otherwise have been entitled to assert, and the public employees police and fire retirement plan may assert any applicable defense that it has in its capacity as a statewide agency.

(d) The Public Employees Retirement Association shall indemnify any former fiduciary of the Minneapolis Police Relief Association consistent with the provisions of section 356A.11. The indemnification may be effected by the purchase by the Public Employees Retirement Association of reasonable fiduciary liability tail insurance for the officers and directors of the former Minneapolis Police Relief Association. Consistent with section 69.80, the relief association may purchase reasonable fiduciary liability tail insurance for its officers and directors prior to the effective date of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19.

(e) Office equipment and other physical assets of the special fund of the Minneapolis Police Relief Association that are not needed by the Public Employees Retirement Association may be sold by the special fund of the Minneapolis Police Relief Association to the general fund of the Minneapolis Police Relief Association or to any successor fraternal organization of the Minneapolis Police Relief Association at fair market value, with the proceeds of that sale deposited in the public employees police and fire retirement fund and included in the transferred asset value under subdivision 6.

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



Sec. 4. **[353.669] CONSOLIDATION OF THE FAIRMONT POLICE RELIEF ASSOCIATION.**

Subdivision 1. **Membership transfer.** On the effective date of consolidation, the retired members, including surviving spouses, of the Fairmont Police Relief Association are transferred to the public employees police and fire retirement plan, are no longer members of the former Fairmont Police Relief Association, and are members of the public employees police and fire retirement plan.

Subd. 2. **Benefit liability transfer.** The liability for the payment of retirement annuities, service pensions, and survivor benefits of the retired members, service pensioners, surviving spouses, and any other retirement benefit recipients of the former Fairmont Police Relief Association, as contained in the transferred records of the former relief association, is transferred to the public employees police and fire retirement plan on the effective date of consolidation.

Subd. 3. **Transfer of records.** On the effective date of consolidation, the chief administrative officer of the Fairmont Police Relief Association shall transfer all records and documents relating to the special fund of the former Fairmont Police Relief Association to the executive director of the Public Employees Retirement Association. To the extent possible, original copies of all records and documents must be transferred.

Subd. 4. **Transfer of assets; transfer of title to assets.** (a) On the effective date of consolidation, the chief administrative officer of the Fairmont Police Relief Association shall transfer the entire assets of the special fund of the Fairmont Police Relief Association to the public employees police and fire retirement fund at market value. Unless ineligible or inappropriate as determined by the State Board of Investment, the transfer must be in the form of investment securities and must include any accounts receivable that are determined by the State Board of Investment as being capable of being collected. The city of Fairmont must transfer, in cash, an amount equal to the market value, as recognized by the relief association of any investment securities that are determined by the executive director of the State Board of Investment to be not in compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, 11A.23, and 11A.24, or to be inappropriate for retention in light of the established investment objectives of the State Board of Investment, or of any accounts receivable that are determined by the executive director as being incapable of being collected. The legal and beneficial title to assets that are determined to be noncompliant or inappropriate securities or that are determined to be uncollectable accounts receivable are transferred from the relief association special fund to the city of Fairmont as of the effective date of consolidation. Any accounts payable of the special fund of the Fairmont Police Relief Association on the effective date of consolidation, are an obligation of the public employees police and fire retirement fund and reduce the value of the transferred relief association special fund assets for purposes of subdivision 6. Assets transferred from the special fund of the Fairmont Police Relief Association must be deposited in the public employees police and fire retirement fund and must be managed by the State Board of Investment through the Minnesota combined investment funds under section 11A.14.

(b) Upon the transfer of the assets to the management of the State Board of Investment under paragraph (a), legal title to those transferred assets vests with the State Board of Investment on behalf of the public employees police and fire retirement plan, and beneficial title to the transferred assets remains with the former membership of the former Fairmont Police Relief Association.

(c) The public employees police and fire retirement plan and fund is the successor in interest to all claims for and against the Fairmont Police Relief Association. The public employees police and fire retirement plan and fund is not liable for any claim against the Fairmont Police Relief Association or its governing board acting in a fiduciary capacity under chapter 356A or under common law which is founded upon a claim of a breach of fiduciary duty if the act or acts constituting the claimed breach were not undertaken in good faith. The public employees police and fire retirement plan may assert any applicable defense to any claim in any judicial or administrative proceeding that the former Fairmont Police Relief Association or its former governing board would otherwise have been entitled to assert and the public employees police and fire retirement plan may assert any applicable defense that it has in its capacity as a statewide agency.

(d) The Public Employees Retirement Association shall indemnify any former fiduciary of the Fairmont Police Relief Association consistent with the provisions of section 356A.11. The indemnification may be effected by the purchase by the Public Employees Retirement Association of reasonable fiduciary liability tail insurance for the officers and directors of the former Fairmont Police Relief Association.

Subd. 5. **Benefits.** (a) The annuities, service pensions, and other retirement benefits of or attributable to retired members and surviving spouses of the Fairmont Police Relief Association who had that status as of the effective date of consolidation, continue after consolidation in the same amount and under the same terms as provided under Minnesota Statutes 2000, sections 423.41 to 423.46, 423.48 to 423.59, 423.61, and 423.62; Laws 1963, chapter 423; Laws 1977, chapter 100; and Laws 1999, chapter 222, article 3, section 4, except as provided in paragraph (b).

(b) The annual base salary figure for pension and benefit determinations upon consolidation and for the balance of calendar year 2012 is \$106,666.67. After December 31, 2012, annual postretirement adjustments of pensions and benefits in force must be calculated solely under section 356.415, subdivision 1c.

Subd. 6. **Calculation of final funded status; employer contributions.** (a) As of the effective date of consolidation, the approved actuary retained by the Public Employees Retirement Association under section 356.214 shall determine the final funded status of the Fairmont Police Relief Association special fund. The final funded status is the present value of future benefits payable from the Fairmont Police Relief Association as of the effective date of consolidation after subtracting the market value of the transferred assets of the Fairmont Police Relief Association as of the effective date of consolidation. The present value of future benefits figure must be calculated using the applicable actuarial assumptions for the public employees police and fire retirement plan specified in or established under section 356.215. If there is a remainder present value of future benefits amount, the city of Fairmont shall pay to the public employees police and fire retirement fund an amount sufficient, on a level annual dollar basis, to amortize the calculated remainder present value of future benefits amount by December 31, 2020. Payments shall be made annually on or before December 31, beginning in 2012.

(b) If there are assets of the former Fairmont Police Relief Association in excess of the present value of future benefits as of the effective date of consolidation, these assets must be credited to an interest bearing suspense account within the public employees police and fire retirement fund, must be used to offset any amount payable under paragraph (c) until June 30, 2015, and, after June 30, 2015, must be paid to the city of Fairmont. The suspense account must be credited with the same rate of investment return as the public employees police and fire retirement fund.

(c) If, after the effective date of consolidation, the postretirement or preretirement interest rate actuarial assumption applicable to the public employees police and fire retirement plan under section 356.215, subdivision 8, is modified from the rates specified in Minnesota Statutes 2010, section 356.215, subdivision 8, the remainder present value of future benefits amount calculation under paragraph (a), updated for the passage of time, must be revised and the amortization contribution by the city of Fairmont for the balance of the amortization period must be redetermined and certified to the city of Fairmont.

**EFFECTIVE DATE.** This section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.

**Sec. 5. [353.6691] MERGER OF THE VIRGINIA FIRE DEPARTMENT RELIEF ASSOCIATION.**

Subdivision 1. **Merger authorized.** On the effective date of merger, the Virginia fire department consolidation account of the Public Employees Retirement Association under chapter 353A becomes a part of the public employees police and fire retirement plan and fund governed by sections 353.63 to 353.659.

Subd. 2. **Benefit liability transfer.** All current and future liabilities of the Virginia fire department consolidation account under chapter 353A are liabilities of the public employees police and fire retirement plan and fund as of the effective date of merger and the accrued benefits of the members of the consolidation account are the obligation of the public employees police and fire retirement plan and fund.

Subd. 3. **Transfer of assets; transfer to title assets.** On the effective date of merger, the assets of the Virginia fire department consolidation account must be transferred to the public employees police and fire retirement fund. Upon transfer, the market value of the assets of the consolidation account, less any amount of residual assets under subdivision 5, are assets of the public employees police and fire fund as of the effective date of merger, and the assets, excluding the distribution amount under subdivision 5, become an asset of the public employees police and fire retirement fund. The public employees police and fire retirement fund also must be credited as an asset with the amount of any receivable assets from employer contributions under subdivision 5.

Subd. 4. **Benefits.** A person who received a service pension, a disability benefit, or a survivor benefit from the Virginia fire department consolidation account for the month prior to the effective date of merger and who has not previously elected postretirement adjustments under section 356.415, subdivision 1c, rather than the postretirement adjustment mechanism of the Virginia Fire Department Relief Association under section 353A.08, subdivision 1, may elect future postretirement adjustments under section 356.415, subdivision 1c, or the retention of the former Virginia Fire Department Relief Association postretirement adjustment mechanism. The election must be made in writing on a form prescribed by the executive director on or before September 1, 2012. Unless modified by an election under this subdivision, the benefit plan election by any person or on behalf of any person under section 353A.08 remains binding.

Subd. 5. **Calculation of final funded status; employer contributions.** (a) As of the effective date of merger, the approved actuary retained by the Public Employees Retirement Association under section 356.214 shall determine the final funded status of the former Virginia Fire Department Relief Association special fund. The final funded status is the present value of future benefits payable from the Virginia fire department consolidation account as of the effective date of merger after subtracting the market value of the transferred assets of the Virginia fire department consolidation account as of the effective date of merger. The present value of future benefits figure must be calculated using the applicable actuarial assumptions for the public employees police and fire retirement plan specified in or established under section 356.215. If there is a remainder present value of future benefits amount, the city of Virginia shall pay to the public employees police and fire retirement fund an amount sufficient, on a level annual dollar basis, to amortize the calculated remainder present value of future benefits amount by December 31, 2020. Payments shall be made annually on or before December 31, beginning in 2012.

(b) If there are assets of the former Virginia fire department consolidation account in excess of the present value of future benefits as of the effective date of merger, these assets shall be credited to an interest bearing suspense account within the public employees police and fire retirement fund until January 1, 2013. The suspense account must be credited with the same rate of investment return as the public employees police and fire retirement fund.

(c) If, after the effective date of merger, the postretirement or preretirement interest rate actuarial assumption applicable to the public employees police and fire retirement plan under section 356.215, subdivision 8, is modified from the rates specified in Minnesota Statutes 2010, section 356.215, subdivision 8, the remainder present value of future benefits amount calculation under paragraph (a), updated for the passage of time, must be revised and any amortization contribution by the city of Virginia for the balance of the amortization period must be redetermined and certified to the city of Virginia.

(d) On January 1, 2013, one-half of any suspense account under paragraph (b) must be paid as an additional ad hoc postretirement adjustment to the service pensioners, disabilitants, and surviving spouses of the former Virginia fire consolidation account. The additional ad hoc postretirement adjustment for each recipient is the total amount available for the adjustment divided by the total number of recipients as of January 1, 2013, of the former Virginia

fire consolidation account. On January 1, 2014, if the suspense account has earned investment income equal to or greater than the preretirement interest rate assumption applicable to the public employees police and fire retirement plan under section 356.215, subdivision 8, the balance remaining of the suspense account under paragraph (b) must be paid as an additional ad hoc postretirement adjustment to the service pensioners, disabilitants, and surviving spouses of the former Virginia fire consolidation account, divided by the total number of recipients as of January 1, 2014. Nothing in this paragraph may be deemed to authorize the payment of a postretirement adjustment to an estate.

**EFFECTIVE DATE.** This section is effective on June 29, 2012, which is the effective date of merger.

Sec. 6. Minnesota Statutes 2011 Supplement, section 356.215, subdivision 8, is amended to read:

Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
<del>Fairmont Police Relief Association</del>	<del>5.0</del>	<del>5.0</del>
<del>Virginia Fire Department Relief Association</del>	<del>5.0</del>	<del>5.0</del>
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

(b) Before July 1, 2010, the actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
legislators retirement plan	5.0%
judges retirement plan	4.0
<del>Fairmont Police Relief Association</del>	<del>3.5</del>
<del>Virginia Fire Department Relief Association</del>	<del>3.5</del>
Bloomington Fire Department Relief Association	4.0

(2) age-related select and ultimate future salary increase assumption or graded rate future salary increase assumption

plan	future salary increase assumption
correctional state employees retirement plan	assumption D
State Patrol retirement plan	assumption C
local government correctional service retirement plan	assumption C
Duluth teachers retirement plan	assumption A
St. Paul teachers retirement plan	assumption B

The select calculation is: during the designated select period, a designated percentage rate is multiplied by the result of the designated integer minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated select period is five years and the designated integer is five for the general state employees retirement plan. The designated select period is ten years and the designated integer is ten for all other retirement plans covered by this clause. The designated percentage rate is: (1) 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, and the local government correctional service retirement plan; (2) 0.6 percent for the general state employees retirement plan; and (3) 0.3 percent for the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association. The select calculation for the Duluth Teachers Retirement Fund Association is 8.00 percent per year for service years one through seven, 7.25 percent per year for service years seven and eight, and 6.50 percent per year for service years eight and nine.

The ultimate future salary increase assumption is:

age	A	B	C	D
16	8.00%	6.90%	7.7500%	7.2500%
17	8.00	6.90	7.7500	7.2500
18	8.00	6.90	7.7500	7.2500
19	8.00	6.90	7.7500	7.2500
20	6.90	6.90	7.7500	7.2500
21	6.90	6.90	7.1454	6.6454
22	6.90	6.90	7.0725	6.5725
23	6.85	6.85	7.0544	6.5544
24	6.80	6.80	7.0363	6.5363
25	6.75	6.75	7.0000	6.5000
26	6.70	6.70	7.0000	6.5000
27	6.65	6.65	7.0000	6.5000
28	6.60	6.60	7.0000	6.5000
29	6.55	6.55	7.0000	6.5000
30	6.50	6.50	7.0000	6.5000
31	6.45	6.45	7.0000	6.5000

32	6.40	6.40	7.0000	6.5000
33	6.35	6.35	7.0000	6.5000
34	6.30	6.30	7.0000	6.5000
35	6.25	6.25	7.0000	6.5000
36	6.20	6.20	6.9019	6.4019
37	6.15	6.15	6.8074	6.3074
38	6.10	6.10	6.7125	6.2125
39	6.05	6.05	6.6054	6.1054
40	6.00	6.00	6.5000	6.0000
41	5.90	5.95	6.3540	5.8540
42	5.80	5.90	6.2087	5.7087
43	5.70	5.85	6.0622	5.5622
44	5.60	5.80	5.9048	5.4078
45	5.50	5.75	5.7500	5.2500
46	5.40	5.70	5.6940	5.1940
47	5.30	5.65	5.6375	5.1375
48	5.20	5.60	5.5822	5.0822
49	5.10	5.55	5.5404	5.0404
50	5.00	5.50	5.5000	5.0000
51	4.90	5.45	5.4384	4.9384
52	4.80	5.40	5.3776	4.8776
53	4.70	5.35	5.3167	4.8167
54	4.60	5.30	5.2826	4.7826
55	4.50	5.25	5.2500	4.7500
56	4.40	5.20	5.2500	4.7500
57	4.30	5.15	5.2500	4.7500
58	4.20	5.10	5.2500	4.7500
59	4.10	5.05	5.2500	4.7500
60	4.00	5.00	5.2500	4.7500
61	3.90	5.00	5.2500	4.7500
62	3.80	5.00	5.2500	4.7500
63	3.70	5.00	5.2500	4.7500
64	3.60	5.00	5.2500	4.7500
65	3.50	5.00	5.2500	4.7500
66	3.50	5.00	5.2500	4.7500
67	3.50	5.00	5.2500	4.7500
68	3.50	5.00	5.2500	4.7500
69	3.50	5.00	5.2500	4.7500
70	3.50	5.00	5.2500	4.7500

## (3) service-related ultimate future salary increase assumption

general state employees retirement plan of the Minnesota State Retirement System	assumption A
general employees retirement plan of the Public Employees Retirement Association	assumption B
Teachers Retirement Association	assumption C
public employees police and fire retirement plan	assumption D

service length	A	B	C	D
1	10.75%	12.25%	12.00%	13.00%
2	8.35	9.15	9.00	11.00
3	7.15	7.75	8.00	9.00
4	6.45	6.85	7.50	8.00
5	5.95	6.25	7.25	6.50
6	5.55	5.75	7.00	6.10
7	5.25	5.45	6.85	5.80
8	4.95	5.15	6.70	5.60
9	4.75	4.85	6.55	5.40
10	4.65	4.65	6.40	5.30
11	4.45	4.45	6.25	5.20
12	4.35	4.35	6.00	5.10
13	4.25	4.15	5.75	5.00
14	4.05	4.05	5.50	4.90
15	3.95	3.95	5.25	4.80
16	3.85	3.85	5.00	4.80
17	3.75	3.75	4.75	4.80
18	3.75	3.75	4.50	4.80
19	3.75	3.75	4.25	4.80
20	3.75	3.75	4.00	4.80
21	3.75	3.75	3.90	4.70
22	3.75	3.75	3.80	4.60
23	3.75	3.75	3.70	4.50
24	3.75	3.75	3.60	4.50
25	3.75	3.75	3.50	4.50
26	3.75	3.75	3.50	4.50
27	3.75	3.75	3.50	4.50
28	3.75	3.75	3.50	4.50
29	3.75	3.75	3.50	4.50
30 or more	3.75	3.75	3.50	4.50

(c) Before July 2, 2010, the actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan of the Minnesota State Retirement System	3.75%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00
general employees retirement plan of the Public Employees Retirement Association	3.75
public employees police and fire retirement plan	3.75
local government correctional service retirement plan	4.50
teachers retirement plan	3.75
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

(d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to apply, unless a different salary assumption or a different payroll increase assumption:

(1) has been proposed by the governing board of the applicable retirement plan;

(2) is accompanied by the concurring recommendation of the actuary retained under section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the most recent actuarial valuation report if section 356.214 does not apply; and

(3) has been approved or deemed approved under subdivision 18.

**EFFECTIVE DATE.** (a) For the Fairmont Police Relief Association, this section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.

(b) For the Virginia fire consolidation account, this section is effective on June 29, 2012, which is the effective date of merger.

Sec. 7. Laws 2002, chapter 392, article 1, section 8, is amended to read:

Sec. 8. **REVISOR INSTRUCTIONS.**

~~(a) In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall not print Minnesota Statutes, sections 423.41 to 423.62, but shall denote those sections as "[LOCAL, CITY OF FAIRMONT, POLICE PENSIONS.]."~~

~~(b)~~ In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall, in each section indicated in column A, replace the cross-reference specified in column B with the cross-reference set forth in column C:

Column A	Column B	Column C
69.021, subd. 10	69.77, subd. 2a	69.77, subd. 3
69.021, subd. 10	69.77, subd. 2b	69.77, subd. 4
69.021, subd. 10	69.77, subd. 2c	69.77, subd. 5
299A.465, subd. 5	424.03	Minnesota Statutes, 2000, 424.03
353A.07, subd. 6	69.77, subd. 2a	69.77, subd. 3
353A.09, subd. 4	69.77, subd. 2a	69.77, subd. 3
356.216	69.77, subd. 2b	69.77, subd. 4
356.219, subd. 2	69.77, subd. 2g	69.77, subd. 9
423.01, subd. 2	69.77, subd. 2b	69.77, subd. 4
423A.18	69.77, subd. 2i	69.77, subd. 11
423A.19, subd. 4	69.77, subd. 2i	69.77, subd. 11
423B.06, subd. 1	69.77, subd. 2a	69.77, subd. 3
423B.06, subd. 1	69.77, subd. 2b	69.77, subd. 4
423B.06, subd. 1	69.77, subd. 2c	69.77, subd. 5
423B.06, subd. 1	69.77, subd. 2d	69.77, subd. 6
423B.06, subd. 1	69.77, subd. 2e	69.77, subd. 7
423B.06, subd. 1	69.77, subd. 2f	69.77, subd. 8
423B.21, subd. 1	69.77, subd. 2b	69.77, subd. 4

**EFFECTIVE DATE.** This section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.



Sec. 8. **TERMINATION OF THE FAIRMONT POLICE RELIEF ASSOCIATION.**

On the effective date of consolidation, the Fairmont Police Relief Association ceases to exist.

**EFFECTIVE DATE.** This section is effective as of the date for consolidation set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.

Sec. 9. **TERMINATION OF THE VIRGINIA FIRE DEPARTMENT RELIEF ASSOCIATION.**

On the effective date of merger, the Virginia fire department consolidation account ceases to exist.

**EFFECTIVE DATE.** This section is effective on June 29, 2012, which is the effective date of merger.

Sec. 10. **REPEALER.**

**Subdivision 1. Fairmont Police Relief Association.** (a) Laws 1963, chapter 423; and Laws 1999, chapter 222, article 3, sections 3; 4; and 5, are repealed.

(b) Minnesota Statutes 2010, section 423A.06, is repealed.

(c) The revisor shall show Minnesota Statutes, sections 423.41, 423.42, 423.43, 423.44, 423.45, 423.46, 423.48, 423.49, 423.50, 423.51, 423.52, 423.53, 423.54, 423.55, 423.56, 423.57, 423.58, 423.59, 423.61, and 423.62, as repealed.

(d) Laws 1947, chapter 624, sections 1; 2; 3; 4; 5; 6; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 21; and 22, are repealed.

**Subd. 2. Virginia fire department consolidation account.** Laws 1953, chapter 399, as amended by Laws 1961, chapter 420, section 1, Laws 1961, chapter 420, section 2, Laws 1961, chapter 420, section 3, Laws 1961, chapter 420, section 4, Laws 1961, chapter 420, section 5, Laws 1961, chapter 420, section 6, Laws 1963, chapter 407, section 1, Laws 1965, chapter 546, section 1, Laws 1965, chapter 546, section 2, Laws 1965, chapter 546, section 3, Laws 1969, chapter 578, section 1, Laws 1969, chapter 578, section 2, Laws 1969, chapter 578, section 3; Laws 1961, chapter 420, sections 2, as amended by Laws 1965, chapter 546, section 2, Laws 1965, chapter 546, section 3, Laws 1969, chapter 578, section 1; 3; 4; 5, as amended by Laws 1963, chapter 407, section 1, Laws 1969, chapter 578, section 2; and 6; Laws 1963, chapter 407, section 1, as amended by Laws 1969, chapter 578, section 2; Laws 1965, chapter 546, sections 1; 2, as amended by Laws 1969, chapter 578, section 1; and 3; Laws 1969, chapter 578, sections 1; 2; and 3; Laws 1974, chapter 183, as amended by Laws 1991, chapter 62, section 1; Laws 1982, chapter 574, section 1; Laws 1982, chapter 578, article 1, section 14; Laws 1983, chapter 69, section 1; Laws 1984, chapter 547, section 27; Laws 1987, chapter 372, article 2, section 14; Laws 1988, chapter 709, sections 1, as amended by Laws 1989, chapter 319, article 4, section 2, Laws 1989, chapter 319, article 18, section 11; and 2; Laws 1991, chapter 62, sections 1; and 2; and Laws 1992, chapter 465, section 1, are repealed.

**EFFECTIVE DATE.** Subdivision 1 is effective as of the date for consolidation of the Fairmont Police Relief Association set by the board of the Public Employees Retirement Association in consultation with the State Board of Investment, but not later than June 29, 2012.

Subdivision 2 is effective for the Virginia fire consolidation account on June 29, 2012, which is the effective date of merger.

ARTICLE 12  
VOLUNTEER FIRE RETIREMENT CHANGES

Section 1. Minnesota Statutes 2010, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms, for the purposes of this chapter and chapters 423, 423A, 424 and 424A, have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means:

(1) a home rule charter or statutory city;

(2) an organized town;

(3) a park district subject to chapter 398;

(4) the University of Minnesota;

(5) for purposes of the fire state aid program only, an American Indian tribal government entity located within a federally recognized American Indian reservation;

(6) for purposes of the police state aid program only, an American Indian tribal government with a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93;

(7) for purposes of the police state aid program only, the Metropolitan Airports Commission; and

(8) for purposes of the police state aid program only, the Department of Natural Resources and the Department of Public Safety with respect to peace officers covered under chapter 352B.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Market value" means latest available market value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the State Board of Equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto insurance coverages as reported in the Minnesota business schedule of the annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification under subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the Peace Officers Standards and Training Board and is authorized to arrest with a warrant; and

(5) who is a member of the ~~Minneapolis Police Relief Association~~, the State Patrol retirement plan, or the public employees police and fire fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized under section 424A.05, subdivision 3, clauses (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means:

(1) for the police state aid program and police relief association financial reports:

(i) the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body;

(ii) in a park district, the ~~clerk is the~~ secretary of the board of park district commissioners;

(iii) in the case of the University of Minnesota, the ~~clerk is the~~ official designated by the Board of Regents;

(iv) for the Metropolitan Airports Commission, the ~~clerk is the~~ person designated by the commission;

(v) for the Department of Natural Resources or the Department of Public Safety, the ~~clerk is the~~ respective commissioner;

(vi) for a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93, the ~~clerk is the~~ person designated by the applicable American Indian tribal government; and

(2) for the fire state aid program and fire relief association financial reports, the person who was elected or appointed to the specified position, or, for governmental entities other than counties, if the governing body of the governmental entity designates the position to perform the function, the chief financial official of the governmental entity or the chief administrative official of the governmental entity.

(k) "Voluntary statewide lump-sum volunteer firefighter retirement plan" means the retirement plan established by chapter 353G.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 2. Minnesota Statutes 2010, section 69.051, subdivision 1, is amended to read:

Subdivision 1. **Financial report and audit.** (a) The board of each salaried firefighters relief association, police relief association, and volunteer firefighters relief association as defined in section 424A.001, subdivision 4, with assets of at least \$200,000 or liabilities of at least \$200,000 in the prior year or in any previous year, according to the applicable actuarial valuation or financial report if no valuation is required, shall:—(1) prepare a financial report covering the special and general funds of the relief association for the preceding fiscal year on a form prescribed by the state auditor, file the financial report, and submit financial statements.

(b) The financial report must contain financial statements and disclosures which present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in compliance with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial report must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief association is a firefighters relief association which is directly associated with a municipal fire department or is a police relief association; or countersigned by the secretary of the independent nonprofit firefighting corporation and

(2) by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the volunteer firefighter relief association is a subsidiary of an independent nonprofit firefighting corporation and by the secretary of the independent nonprofit firefighting corporation; or

(3) by the chief financial official of the county in which the volunteer firefighter relief association is located or primarily located if the relief association is associated with a fire department that is not located in or associated with an organized municipality.

~~(2) file~~ (c) The financial report must be retained in its office for public inspection and present it to must be filed with the city council governing body of the government subdivision in which the associated fire department is located after the close of the fiscal year. One copy of the financial report must be furnished to the state auditor after the close of the fiscal year; and,

~~(3) submit to the state auditor~~ (d) Audited financial statements which have been must be attested to by a certified public accountant, public accountant, or the state auditor and must be filed with the state auditor within 180 days after the close of the fiscal year. The state auditor may accept this report in lieu of the report required in clause (2) paragraph (c).

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 69.051, subdivision 1a, is amended to read:

Subd. 1a. **Financial statement.** (a) The board of each volunteer firefighters relief association, as defined in section 424A.001, subdivision 4, that is not required to file a financial report and audit under subdivision 1 must prepare a detailed statement of the financial affairs for the preceding fiscal year of the relief association's special and general funds in the style and form prescribed by the state auditor. The detailed statement must show the sources and amounts of all money received; all disbursements, accounts payable and accounts receivable; the amount of money remaining in the treasury; total assets including a listing of all investments; the accrued liabilities; and all items necessary to show accurately the revenues and expenditures and financial position of the relief association.

(b) The detailed financial statement required under paragraph (a) must be certified by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the examination shall give an opinion as to the condition of the special and general funds of the relief association, and shall comment upon any exceptions to the report. The independent accountant or auditor must have at least five years of public accounting, auditing, or similar experience, and must not be an active, inactive, or retired member of the relief association or the fire or police department.

(c) The detailed statement required under paragraph (a) must be countersigned by:

(1) the municipal clerk or clerk-treasurer of the municipality; or;

(2) where applicable, by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the relief association is a subsidiary of an independent nonprofit firefighting corporation; and by the secretary of the independent nonprofit firefighting corporation; or

(3) by the chief financial official of the county in which the volunteer firefighter relief association is located or primarily located if the relief association is associated with a fire department that is not located in or associated with an organized municipality.

(d) The volunteer firefighters' relief association board must file the detailed statement required under paragraph (a) in the relief association office for public inspection and present it to the city council within 45 days after the close of the fiscal year, and must submit a copy of the detailed statement to the state auditor within 90 days of the close of the fiscal year.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 69.051, subdivision 3, is amended to read:

Subd. 3. **Report by certain municipalities.** (a) Each municipality which has an organized fire department but which does not have a firefighters' relief association governed by section 69.77 or sections 69.771 to 69.775 and which is not exempted under paragraph (b) shall annually prepare a detailed financial report of the receipts and disbursements by the municipality for fire protection service during the preceding calendar year, on a form prescribed by the state auditor. The financial report must contain any information which the state auditor deems necessary to disclose the sources of receipts and the purpose of disbursements for fire protection service. The financial report must be signed by the municipal clerk or clerk-treasurer of the municipality. The financial report must be filed by the municipal clerk or clerk-treasurer with the state auditor on or before July 1 annually. ~~The state auditor shall forward one copy to the county auditor of the county wherein the municipality is located.~~ The municipality shall not qualify initially to receive, or be entitled subsequently to retain, state aid under this chapter if the financial reporting requirement or the applicable requirements of this chapter or any other statute or special law have not been complied with or are not fulfilled.

(b) Each municipality that has an organized fire department and provides retirement coverage to its firefighters through the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G qualifies to have fire state aid transmitted to and retained in the statewide lump-sum volunteer firefighter retirement fund without filing a detailed financial report if the executive director of the Public Employees Retirement Association certifies compliance by the municipality with the requirements of sections 353G.04 and 353G.08, paragraph (e), and by the applicable fire chief with the requirements of section 353G.07.

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

Sec. 5. Minnesota Statutes 2010, section 69.772, subdivision 4, is amended to read:

Subd. 4. **Certification of financial requirements and minimum municipal obligation; levy.** (a) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 3 ~~to the governing body of the municipality~~ on or before August 1 of each year. The certification must be made to the entity that is responsible for satisfying the minimum obligation with respect to the special fund of the relief association. If the responsible entity is a joint powers entity, the certification must be made in the manner specified in the joint powers agreement, or if the joint powers agreement is silent on this point, the certification must be made to the chair of the joint powers board.

~~(b)~~ (b) The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051. The schedule forms related to the determination of the financial requirements must be filed with the state auditor by March 31, annually, if the relief association is required to file a financial statement under section 69.051, subdivision 1a, or by June 30, annually, if the relief association is required to file a financial report and audit under section 69.051, subdivision 1.

~~(c)~~ (c) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue.

~~(d)~~ (d) The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law upon the rate or amount of taxation until the balance of the special fund or any fund of the relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

~~(e)~~ (e) If the municipality does not include the full amount of the minimum municipal obligations in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the certified minimum municipal obligation on the taxable property of the municipality.

~~(f)~~ (f) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request a copy of the certifications under this subdivision from the relief association or from the city. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 6. Minnesota Statutes 2010, section 69.773, subdivision 5, is amended to read:

Subd. 5. **Minimum municipal obligation.** (a) The officers of the relief association shall determine the minimum obligation of the municipality with respect to the special fund of the relief association for the following calendar year on or before August 1 of each year in accordance with the requirements of this subdivision.

(b) The minimum obligation of the municipality with respect to the special fund is an amount equal to the financial requirements of the special fund of the relief association determined under subdivision 4, reduced by the estimated amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the municipality for transmittal to the special fund of the relief association during the following year and the amount of any anticipated contributions to the special fund required by the relief association bylaws from the active members of the relief association reasonably anticipated to be received during the following calendar year. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(c) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 4 and this subdivision ~~to the governing body of the municipality~~ by August 1 of each year. The certification must be made to the entity that is responsible for satisfying the minimum obligation with respect to the special fund of the relief association. If the responsible entity is a joint powers entity, the certification must be made in the manner specified in the joint powers agreement, or if the joint powers agreement is silent on this point, the certification must be made to the chair of the joint powers board.

(d) The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051.

~~(e)~~ (e) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue. The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law or charter upon the rate or amount of taxation until the balance of the special fund or any fund of the relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

~~(f)~~ (f) If the municipality does not include the full amount of the minimum municipal obligation in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the minimum municipal obligation on the taxable property of the municipality.

~~(g)~~ (g) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request from the relief association or from the city a copy of the certifications under this subdivision. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 7. Minnesota Statutes 2010, section 69.80, is amended to read:

**69.80 AUTHORIZED ADMINISTRATIVE EXPENSES.**

(a) Notwithstanding any provision of law to the contrary, the payment of the following necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, when provided for in the bylaws of the association and approved by the board of trustees, constitutes authorized administrative expenses of a police, salaried firefighters', or volunteer firefighters' relief association organized under any law of this state:

(1) office expense, including, but not limited to, rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures, and salaries of administrative personnel;

(2) salaries of the ~~president, secretary, and treasurer~~ officers of the association, or their designees, and ~~any other official salaries of the members of the board of trustees of the relief association to whom a salary is payable under bylaws or articles of incorporation in effect on January 1, 1986~~ if the salary amounts are approved by the governing body of the entity that is responsible for meeting any minimum obligation under section 69.77, 69.772, or 69.773, and their the itemized expenses of relief association officers and board members that are incurred as a result of fulfilling their responsibilities as administrators of the special fund;

(3) tuition, registration fees, organizational dues, and other authorized expenses of the officers or members of the board of trustees incurred in attending educational conferences, seminars, or classes relating to the administration of the relief association;

(4) audit, actuarial, medical, legal, and investment and performance evaluation expenses;

(5) filing and application fees payable by the relief association to federal or other governmental entities;

(6) reimbursement to the officers and members of the board of trustees, or their designees, for reasonable and necessary expenses actually paid and incurred in the performance of their duties as officers or members of the board; and

~~(6)~~ (7) premiums on fiduciary liability insurance and official bonds for the officers, members of the board of trustees, and employees of the relief association.

(b) Any other expenses of the relief association must be paid from the general fund of the association, if one exists. If a relief association has only one fund, that fund is the special fund for purposes of this section. If a relief association has a special fund and a general fund, and any expense of the relief association that is directly related to the purposes for which both funds were established, the payment of that expense must be apportioned between the two funds on the basis of the benefits derived by each fund.

**EFFECTIVE DATE.** This section is effective July 1, 2012, with respect to the amendment to paragraph (a), clause (2), and is effective retroactively from January 1, 2010, with respect to the amendment to paragraph (a), clauses (5), (6), and (7).

Sec. 8. Minnesota Statutes 2010, section 353G.08, is amended by adding a subdivision to read:

Subd. 2a. **Additional municipal contributions authorized.** (a) At the discretion of the municipality or the independent nonprofit firefighting corporation associated with a fire department covered by a voluntary statewide lump-sum volunteer firefighter retirement plan account, the municipality or the corporation may make additional contributions to the applicable account.

(b) The executive director of the Public Employees Retirement Association may specify requirements as to the form, timing, and accompanying information for contributions made under this subdivision.

(c) Any contributions made under this subdivision must be included as total present assets of the account for the calculation of any subsequent annual funding requirements for the account under subdivision 1 or for the calculation of any cash flow funding requirement under subdivision 2.

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

Sec. 9. Minnesota Statutes 2010, section 424A.001, subdivision 4, is amended to read:

Subd. 4. **Relief association.** (a) "Relief association" or "volunteer firefighters' relief association" means ~~(1)~~ a volunteer firefighters' relief association or a volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association that is:

(1) organized and incorporated as a nonprofit corporation to provide retirement benefits to volunteer firefighters under chapter 317A and any laws of the state;

(2) is governed by this chapter and ~~chapter 69~~, sections 69.771 to 69.775; and



(3) is directly associated with:

(i) a fire department established by municipal ordinance; ~~or~~

~~(2) any separately incorporated volunteer firefighters' relief association that is subsidiary to and that provides service pension and retirement benefit coverage for members of (ii) an independent nonprofit firefighting corporation that is organized under the provisions of chapter 317A, is governed by this chapter, and that operates exclusively primarily for firefighting purposes; or~~

(iii) a fire department operated as or by a joint powers entity that operates primarily for firefighting purposes.

(b) "Relief association" or "volunteer firefighters' relief association" does not mean:

(1) the Bloomington Fire Department Relief Association governed by section 69.77; Minnesota Statutes 2000, chapter 424; and Laws 1965, chapter 446, as amended; or

(2) the voluntary statewide lump-sum volunteer firefighter retirement plan governed by Minnesota Statutes, chapter 353G.

(c) A relief association or volunteer firefighters' relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

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

Sec. 10. Minnesota Statutes 2010, section 424A.01, subdivision 6, is amended to read:

Subd. 6. **Return to active firefighting after break in service.** (a) The requirements of this section apply to all breaks in service, except breaks in service mandated by federal or state law.

(b)(1) If a firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the firefighter may again become an active member of the relief association. A firefighter who returns to active service and membership is subject to the service pension calculation requirements under this section.

(2) A firefighter who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(3) A person who has a break in service not exceeding one year but has not been granted an approved leave of absence and who has not received a service pension or disability benefit may be made exempt from the minimum period of resumption service requirement of this section by the relief association bylaws.

(4) If the bylaws so provide, a firefighter who returns to active relief association membership under this paragraph may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under chapter 424A.

(c) If a former firefighter who has received a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2. No firefighter may be paid a service pension more than once for the same period of service.

(d) If a former firefighter who has not received a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the original and resumption service period periods if the firefighter meets the minimum period of resumption service specified in the relief association bylaws and the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the original and resumption years of service credit.

(e) A firefighter who returns to active lump-sum relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. ~~No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, or 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.~~

(f) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (b), who ~~does~~ did not ~~qualify for a service pension under paragraph (d)~~ meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the firefighter's previous original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension ~~calculated for the previous years of original and resumption service based on periods calculated by applying~~ the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active lump-sum relief association membership under this paragraph, but who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(g) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (b), and if the relief association bylaws do not allow for the firefighter to continue collecting a monthly service pension, any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (c), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. A suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated ~~to apply by applying~~ the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(h) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (b), who ~~does~~ did not ~~qualify for a service pension under paragraph (d)~~ meet the minimum period of resumption service requirement specified in the relief association's bylaws, but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous original and resumption years of active service, must have, upon a subsequent cessation of duties, a service pension ~~calculated for the previous years of original and resumption service based on periods calculated by applying~~ the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties. The service pension for a firefighter who returns to active relief association membership under this paragraph, but

who had met the minimum period of resumption service requirement specified in the relief association's bylaws, must be calculated by applying the service pension amount in effect on the date of the firefighter's termination of the resumption service.

(i) For defined contribution plans, a firefighter who returns to active relief association membership under paragraph (b) and who qualifies for a service pension under paragraph (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, and if the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, based on the resumption years of service, a second service pension for the resumption service period must be calculated to include allocations credited to the firefighter's individual account during the resumption period of service and deductions for administrative expenses, if applicable.

(j) For defined contribution plans, if a firefighter who had not been paid a service pension returns to active relief association membership under paragraph (b), and who meets the minimum service requirement of section 424A.016, subdivision 3, based on the firefighter's original and resumption years of service, must have, upon a subsequent cessation of duties, a service pension for the original and resumption service periods calculated to include allocations credited to the firefighter's individual account during the resumption period of service and deductions for administrative expenses, if applicable, less any amounts previously forfeited under section 424A.016, subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 11. Minnesota Statutes 2010, section 424A.016, subdivision 5, is amended to read:

Subd. 5. **Service pension installment payments.** (a) A defined contribution relief association, if the governing bylaws so provide, may pay, at the option of the ~~retiring member~~ intended recipient and in lieu of a single payment of a service pension or a survivor benefit, the service pension or survivor benefit in installments.

(b) The election of installment payments is irrevocable and must be made by the ~~retiring member~~ intended recipient in writing and filed with the secretary of the relief association no later than 30 days before the commencement of payment of the service pension or survivor benefit.

(c) The amount of the installment payments must be the fractional portion of the remaining account balance equal to one divided by the number of remaining annual installment payments.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 12. Minnesota Statutes 2010, section 424A.016, subdivision 6, is amended to read:

Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership ~~before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.~~ The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association ~~or~~;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

~~(2)~~ (3) at the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the accounting date on which the investment return is recognized by and credited to the special fund.

(d) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

(e) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

**EFFECTIVE DATE.** (a) This section is effective January 1, 2013.

(b) This section applies only to persons becoming deferred service pensioners after January 1, 2013.

Sec. 13. Minnesota Statutes 2010, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to

have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

(c) No municipality or nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

~~(d) No relief association as defined in section 424A.001, subdivision 4, may pay a defined benefit service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:~~

~~(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;~~

~~(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and~~

~~(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.~~

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

Sec. 14. Minnesota Statutes 2010, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of either the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership ~~before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.~~ The requirement that a member separate from active service and membership is waived for persons who have discontinued their volunteer firefighter duties and who are employed on a full-time basis under section 424A.015, subdivision 1.

(b) The deferred service pension is payable when the former member reaches at least age 50, or at least the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association ~~or~~;

(2) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

~~(2)~~ (3) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause ~~(2)~~ (3), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

(e) Unless the bylaws of a relief association that has elected to pay interest or additional investment performance on deferred lump-sum service pensions under paragraph (c) specifies a different interest or additional investment performance method, including the interest or additional investment performance period starting date and ending date, the interest or additional investment performance on a deferred service pension is creditable as follows:

(1) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (1) or (3), beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member commences receipt of the deferred service pension; or

(2) for a relief association that has elected to pay interest or additional investment performance under paragraph (c), clause (2), beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member commences receipt of the deferred service pension.

(f) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump-sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

~~(f)~~ (g) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

**EFFECTIVE DATE.** (a) This section is effective January 1, 2013.

(b) This section applies only to persons becoming deferred service pensioners after January 1, 2013.

Sec. 15. Minnesota Statutes 2010, section 424A.02, subdivision 9, is amended to read:

Subd. 9. **Limitation on ancillary benefits.** A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide solely for a lump-sum service pension to a retiring member, or provide a retiring member the choice of either a lump-sum service pension or a monthly service pension and the lump-sum service pension was chosen, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

(3)(i) If a lump sum survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving children and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(4)(i) If a monthly benefit survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(iii) For purposes of this clause, if the relief association bylaws authorize a monthly survivor benefit payable to a designated beneficiary, the relief association bylaws may limit the total survivor benefit amount payable.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a trust created under chapter 501B may be a designated beneficiary. If a trust is payable to the surviving children organized under chapter 501B as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this section to the contrary.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 16. Minnesota Statutes 2010, section 424A.04, subdivision 3, is amended to read:

Subd. 3. **Conditions on relief association consultants.** (a) If a volunteer firefighter relief association employs or contracts with a consultant to provide legal or financial advice, the secretary of the relief association shall obtain and the consultant shall provide to the secretary of the relief association a copy of the consultant's certificate of insurance.

(b) A consultant is any person who is employed under contract to provide legal or financial advice and who is or who represents to the volunteer firefighter relief association that the person is:

- (1) an actuary;
- (2) ~~a licensed public accountant~~ or a certified public accountant;
- (3) an attorney;
- (4) an investment advisor or manager, or an investment counselor;
- (5) an investment advisor or manager selection consultant;
- (6) a pension benefit design advisor or consultant; or
- (7) any other financial consultant.

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



Sec. 17. Minnesota Statutes 2010, section 424A.06, subdivision 2, is amended to read:

Subd. 2. **General fund assets and revenues.** ~~To~~(a) The general fund, if established, must be credited with the following:

(1) ~~all moneys~~ money received from dues; other than dues payable as contributions under the bylaws of the relief association to the special fund;

(2) all money received from fines; ;

(3) all money received from initiation fees; ;

(4) all money received as entertainment revenues; and

(5) ~~any moneys~~ money or property donated, given, granted or devised by any person, either for the support of the general fund of the relief association or for unspecified uses purposes.

(b) The treasurer of the relief association is the custodian of the assets of the general fund and must be the recipient on behalf of the general fund of all revenues payable to the general fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the general fund. These records must be open for inspection by any member of the relief association at reasonable times and places.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

#### ARTICLE 13 SMALL GROUP OR ONE PERSON RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2011 Supplement, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees; mandatory membership.** (a) Public employees whose salary exceeds \$425 in any month and who are not specifically excluded under subdivision 2b or who have not been provided an option to participate under subdivision 2d, whether individually or by action of the governmental subdivision, must participate as members of the association with retirement coverage by the general employees retirement plan under this chapter, the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies. Membership commences as a condition of their employment on the first day of their employment or on the first day that the eligibility criteria are met, whichever is later. Public employees include but are not limited to:

(1) persons whose salary meets the threshold in this paragraph from employment in one or more positions within one governmental subdivision;

(2) elected county sheriffs;

(3) persons who are appointed, employed, or contracted to perform governmental functions that by law or local ordinance are required of a public officer, including, but not limited to:

(i) town and city clerk or treasurer;

(ii) county auditor, treasurer, or recorder;

(iii) city manager as defined in section 353.028 who does not exercise the option provided under subdivision 2d; or

(iv) emergency management director, as provided under section 12.25;

(4) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(5) full-time employees of the Dakota County Agricultural Society;

(6) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elected general employee retirement plan coverage before August 20, 2009; ~~and~~

(7) employees of the Red Wing Port Authority who were first employed by the Red Wing Port Authority before May 1, 2011, and who are not excluded employees under subdivision 2b-; and

(8) employees of the Seaway Port Authority of Duluth who are not excluded employees under subdivision 2b.

(b) A public employee or elected official who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) If the salary of an included public employee is less than \$425 in any subsequent month, the member retains membership eligibility.

(d) For the purpose of participation in the MERF division of the general employees retirement plan, public employees include employees who were members of the former Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as members of the MERF division of the association.

**EFFECTIVE DATE.** (a) This section is effective the day after the board of commissioners of the Seaway Port Authority of Duluth and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Authority of the Seaway Port Authority of Duluth to approve this section expires on June 30, 2012.

Sec. 2. Minnesota Statutes 2011 Supplement, section 353.01, subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department, unit or instrumentality of state or local government, or any public body established under state or local authority that has a governmental purpose, is under public control, is responsible for the employment and payment of the salaries of employees of the entity, and receives a major portion of its revenues from taxation, fees, assessments or from other public sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, charter schools formed under section 124D.10, service cooperatives exercising retirement plan participation under section 123A.21, subdivision 5, joint powers boards organized under section 471.59, subdivision 11, paragraph (a), family service collaboratives and children's mental health collaboratives organized under section 471.59, subdivision 11, paragraph (b) or (c), provided that the entities creating the collaboratives are governmental units that otherwise qualify for retirement plan membership, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Minnesota Inter-county Association, the Minnesota

Municipal Utilities Association, the Metropolitan Airports Commission, the University of Minnesota with respect to police officers covered by the public employees police and fire retirement plan, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Seaway Port Authority of Duluth, the Red Wing Port Authority, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, the Dakota County Agricultural Society, Hennepin Healthcare System, Inc., and the Minneapolis Firefighters Relief Association and Minneapolis Police Relief Association with respect to staff covered by the Public Employees Retirement Association general plan.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul or the Seaway Port Authority of Duluth and other than the Red Wing Port Authority; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district; or the board of a family service collaborative or children's mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled by representatives of governmental units.

(d) A nonprofit corporation governed by chapter 317A or organized under Internal Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a governmental subdivision unless the entity has obtained a written advisory opinion from the United States Department of Labor or a ruling from the Internal Revenue Service declaring the entity to be an instrumentality of the state so as to provide that any future contributions by the entity on behalf of its employees are contributions to a governmental plan within the meaning of Internal Revenue Code, section 414(d).

(e) A public body created by state or local authority may request membership on behalf of its employees by providing sufficient evidence that it meets the requirements in paragraph (a).

(f) An entity determined to be a governmental subdivision is subject to the reporting requirements of this chapter upon receipt of a written notice of eligibility from the association.

**EFFECTIVE DATE.** (a) This section is effective the day after the board of commissioners of the Seaway Port Authority of Duluth and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Authority of the Seaway Port Authority of Duluth to approve this section expires on June 30, 2012.

**Sec. 3. PERA-GENERAL; PRIOR SEAWAY PORT AUTHORITY OF DULUTH SERVICE CREDIT TRANSFER.**

**Subdivision 1. PERA-general coverage.** Employees of the Seaway Port Authority of Duluth on July 1, 2012, are public employees within the meaning of Minnesota Statutes, section 353.01, subdivisions 2 and 2a, and are members of the general employees retirement plan of the Public Employees Retirement Association as of that date.

**Subd. 2. Service and salary credit for prior Seaway Port Authority of Duluth employment.** (a) Any employee of the Seaway Port Authority of Duluth on the effective date of this section is eligible, on or after July 1, 2012, to transfer to the general employees retirement plan of the Public Employees Retirement Association prior service credit rendered in the employ of the Seaway Port Authority of Duluth as allowable service credit, but not to exceed the maximum set forth in paragraph (c), and prior salary received from employment by the Seaway Port Authority of Duluth as salary credit as provided in paragraph (b).

(b) The amount of allowable service and salary credit to be transferred to the general employees retirement plan for prior Seaway Port Authority of Duluth employment is that portion of the total prior Seaway Port Authority of Duluth employment that bears the same relationship that the assets transferred to the general employees retirement fund with respect to each applicable person bear to the full actuarial value of the benefit attributable to the prior service and salary under Minnesota Statutes, chapters 353 and 356. The full actuarial value of the benefit attributable to the prior service under Minnesota Statutes, chapters 353 and 356, is as provided in Minnesota Statutes, section 356.551. The assets transferred with respect to each applicable person is the person's account balance in the Seaway Port Authority of Duluth section 401(a) federal Internal Revenue Code retirement plan, the person's account balance in a section 457 federal Internal Revenue Code deferred compensation plan, the person's share of any purchase payment amounts that the Seaway Port Authority of Duluth irrevocably commits to contribute to the general employees retirement fund, and any purchase payment amount contributed by the applicable person to the general employees retirement fund. Any amounts from the section 401(a) federal Internal Revenue Code retirement plan, the section 457 federal Internal Revenue Code deferred compensation plan, or from a purchase payment amount provided by the Seaway Port Authority of Duluth must be made on an institution-to-institution basis.

(c) If the assets transferred with respect to an applicable person under paragraph (b) are less than the full actuarial value of the benefit attributable to the prior service under Minnesota Statutes, section 356.551, as of the date of the asset transfer, the untransferred balance of the prior service and salary may be purchased on June 30, 2014, by the applicable person or a combination of the applicable person and the Seaway Port Authority of Duluth by the payment of the balance of the full actuarial value payment amount under Minnesota Statutes, section 356.551, plus compound interest at the rate of 0.71 percent per month between the transfer date under paragraph (b) until June 30, 2014. No applicable person may purchase more allowable service and salary credit from the general employees retirement plan of the Public Employees Retirement Association than the person's period of employment by the Seaway Port Authority of Duluth rendered before the effective date of this section if the employment would have been eligible service and salary for general employees retirement plan coverage if the service had been rendered or salary received after the effective date of this section.

(d) An applicable person must provide any documentation related to eligibility under the general employees retirement plan that is required by the executive director. Allowable service and salary credit for any period must be transferred and recognized by the general employees retirement plan for an applicable person upon receipt of the associated transferred assets.

(e) Transferred service and salary credit related to the Seaway Port Authority of Duluth before July 1, 1989, does not make a person eligible for a retirement annuity under Minnesota Statutes, section 353.30, subdivision 1a.

(f) Authority to have service and salary credit transferred under this section expires on July 1, 2013, or on the date that the applicable person terminates employment by the Seaway Port Authority of Duluth, whichever is earlier.

Subd. 3. **Status of service transfer amounts.** Notwithstanding any provision of Minnesota Statutes, section 353.32, 353.34, or 353.35, to the contrary, amounts transferred to the general employees retirement fund of the Public Employees Retirement Association under subdivision 2 must be considered to be an accumulated member contribution deduction.

**EFFECTIVE DATE.** (a) This section is effective the day after the board of commissioners of the Seaway Port Authority of Duluth and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Authority of the Seaway Port Authority of Duluth to approve this section expires on June 30, 2012.

Sec. 4. **TEACHERS RETIREMENT ASSOCIATION; COVERAGE ELECTION FOR CERTAIN MNSCU FACULTY MEMBER.**

(a) Notwithstanding any provision to the contrary in Minnesota Statutes, chapter 354B, an eligible person described in paragraph (b) may elect prospective and retroactive retirement coverage under paragraph (c).

(b) An eligible person is a person who:

(1) was born on February 2, 1978;

(2) was initially employed by the Minnesota State Colleges and Universities system on a part-time basis at Metropolitan State University on August 27, 2005;

(3) was also additionally employed within the Minnesota State Colleges and Universities system at Inver Hills Community College and St. Paul College; and

(4) was covered by the higher education individual retirement account plan because of a failure of Metropolitan State University to advise the eligible person about the optional election and default retirement coverage provisions of Minnesota Statutes, section 354B.21, subdivisions 2 and 3.

(c) An eligible person may elect retirement coverage by the Teachers Retirement Association rather than the higher education individual retirement account plan for faculty employment rendered after the date of the retirement coverage election under this section and for past Minnesota State Colleges and Universities system faculty employment from August 27, 2005, until the date of the retirement coverage election. The election must be made in writing, must be filed with the executive director of the Teachers Retirement Association, and must be accompanied with any relevant documentation required by the executive director of the Teachers Retirement Association.

(d) If an eligible person makes the retirement coverage election under paragraph (c), the eligible person's member contributions to the higher education individual retirement account plan must be transferred to the Teachers Retirement Association, with any earned investment returns on those contributions. If the transferred member contributions and investment earnings are less than the calculated amount of the member contribution that the eligible person would have made to the Teachers Retirement Association on the eligible person's compensation from the Minnesota State Colleges and Universities system for the period from August 27, 2005, to the date of the retirement coverage election, if the person had been covered by the Teachers Retirement Association during the period, plus annual compound interest at the rate of 8.5 percent, the eligible person shall pay the balance of that calculated member contribution obligation within 30 days of the retirement coverage election. Any payment may be made through an institution-to-institution transfer from the eligible person's account in the Minnesota state deferred compensation program or the eligible person's tax-sheltered savings account under section 403(b) of the federal Internal Revenue Code.

(e) Upon the transfer of the equivalent member contribution amount and any additional payments under paragraph (d), the balance of the eligible person's higher education individual retirement account plan account must be transferred to the Teachers Retirement Association. If the amounts under paragraph (d) and the higher education individual retirement account plan account balance under this paragraph are less than the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.551, the Minnesota State Colleges and Universities system shall pay that difference within 60 days of the retirement coverage election date.

(f) Upon the transfers and payments under paragraphs (d) and (e), the eligible person must be credited by the Teachers Retirement Association with allowable and formula service for Minnesota State Colleges and Universities system employment since August 27, 2005.

(g) The authority to make a retirement coverage election under this section expires on January 1, 2013.

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

Sec. 5. **SERVICE CREDIT PURCHASE AUTHORIZATION FOR UNCREDITED PRIOR PUBLIC EMPLOYMENT.**

(a) An eligible person described in paragraph (b) is entitled to purchase allowable service in the general employees retirement plan of the Public Employees Retirement Association under Minnesota Statutes, section 353.01, subdivision 16, for the period described in paragraph (c) upon the payment of the purchase requirement specified in paragraph (e).

(b) An eligible person is a person who:

(1) was born on September 10, 1949;

(2) was first employed by Crookston Township on July 1, 1990;

(3) was enrolled in the general employees retirement plan of the Public Employees Retirement Association on September 15, 2010; and

(4) had omitted deductions paid for allowable service for Crookston Township back to January 1, 2007.

(c) The period of prior service credit available for purchase is the period of Crookston Township employment from July 1, 1990, to December 31, 2006, if the service was not that of an independent contractor and the compensation for the service met or exceeded the applicable minimum monthly salary threshold amount for plan coverage.

(d) The eligible person must apply with the executive director of the Public Employees Retirement Association to make the service credit purchase under this section. The application must be in writing and must include all necessary relevant documentation that the executive director may require.

(e) Allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, must be granted by the general employees retirement plan of the Public Employees Retirement Association to the eligible person in proportion to the portion of the prior service credit purchase payment amount bears to the total prior service credit purchase payment amount required under Minnesota Statutes, section 356.551. Of the total prior service credit purchase payment amount under Minnesota Statutes, section 356.551, the eligible person must pay a total amount equal to the employee contribution rates in effect during the uncredited employment period applied to the actual salary rates of the eligible person during the period. If the eligible person begins to make the payment, Crookston Township shall pay the remainder of the total prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.551. The executive director of the Public Employees Retirement Association shall notify the treasurer of Crookston Township that the member has begun paying the member contribution amount within 60 days of the receipt of that payment. If Crookston Township fails to pay its portion of the prior service credit purchase payment amount under this section, the executive director of the Public Employees Retirement Association shall collect the unpaid amount under Minnesota Statutes, section 353.28, subdivision 6, paragraph (a). The eligible person and Crookston Township may make monthly or quarterly installment payments of their purchase payment portions, with interest on the remaining balance of the portion at an 8.5 percent annual compounded rate.

(f) Authority for an eligible person and Crookston Township to make prior service credit purchase installment payments under this section expires on June 30, 2017, or upon the eligible person's termination of employment by Crookston Township, whereupon any unpaid installments are due in a lump sum.

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

Sec. 6. **PERA-P&F; LATE RETROACTIVE DUTY DISABILITY BENEFIT APPLICATION AUTHORIZED.**

(a) Notwithstanding any provision of Minnesota Statutes, section 353.031 or 353.656 to the contrary, an eligible person described in paragraph (b) is authorized to file, on behalf of the deceased eligible person's spouse, an application for a disability benefit from the public employees police and fire retirement plan retroactive to the date of the duty disability injury.

(b) An eligible person is the surviving spouse of a person who:

(1) was born on February 9, 1983;

(2) was initially employed as a deputy sheriff by Mahnomen County on May 9, 2005;

(3) suffered two gunshot wounds while investigating a report of gunfire in Mahnomen on February 18, 2009, including one gunshot wound to the head; and

(4) after periods at a rehabilitation hospital and at a hospice facility, died as a result of the wounds and accompanying complications on August 9, 2010.

(c) If the eligible person files the disability benefit application under paragraph (a) and if the late Mahnomen County deputy sheriff described in paragraph (b) is determined by the Public Employees Retirement Association as being disabled while in the line of duty, the eligible person is entitled to receive payment of the duty disability benefits that would have been paid before August 10, 2010, to the late Mahnomen County deputy described in paragraph (b) under Minnesota Statutes, section 353.656, subdivision 1a, if a disability benefit application had been filed in a timely manner on or after February 18, 2009.

(d) The authority to file a disability benefit application under paragraph (a) expires on July 1, 2013.

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

Delete the title and insert:

"A bill for an act relating to retirement; statewide and local retirement plans; revising certain statutory actuarial assumptions; requiring comprehensive annual retirement plan fund reporting by Minnesota Management and Budget, modifying various Department of Human Services employment classifications eligible for correctional retirement coverage; modifying certain health care savings plan provisions; clarifying transfer eligibility for the unclassified state employees retirement program; making various modifications in retirement plans administered by the Public Employees Retirement Association, making various revisions in the public employees privatization law; making various administrative changes in the Teachers Retirement Association law, including revising state and local aid programs inherited from the former Minneapolis Teachers Retirement Fund Association; making various modifications to conform with the federal Internal Revenue Code retirement plan requirements; updating the public pension fund investment laws, merging the Fairmont Police Relief Association and the Virginia fire consolidation account with the public employees police and fire retirement plan; making various volunteer fire retirement law changes; and making various small group or single person retirement authorizations; amending Minnesota Statutes 2010, sections 11A.07, subdivision 4; 11A.14, subdivision 14; 11A.24; 16A.06, subdivision 9; 69.011, subdivision 1; 69.051, subdivisions 1, 1a, 3; 69.77, subdivision 9; 69.772, subdivision 4; 69.773, subdivision 5; 69.775; 69.80; 126C.41, subdivision 3; 352.91, subdivisions 3c, 3d, 3f; 352.98, subdivisions 3, 4, 5, 8; 352D.02, subdivision 3; 353.01, subdivision 47; 353.50, subdivision 7; 353.656, subdivision 2; 353F.02, subdivision 4; 353F.04, subdivision

1; 353F.07; 353G.08, by adding a subdivision; 354.51, subdivision 5; 354A.08; 354A.12, subdivision 3c; 356.215, subdivisions 1, 11; 356.219, subdivisions 1, 8; 356.415, subdivision 1d; 356.611, subdivisions 2, 3, 3a, 4, by adding a subdivision; 356.635, subdivisions 6, 9; 356A.01, subdivision 19; 356A.06, subdivisions 6, 7; 423A.02, subdivision 3; 424A.001, subdivision 4; 424A.01, subdivision 6; 424A.016, subdivisions 5, 6; 424A.02, subdivisions 1, 7, 9; 424A.04, subdivision 3; 424A.06, subdivision 2; Minnesota Statutes 2011 Supplement, sections 69.77, subdivisions 1a, 4; 353.01, subdivisions 2a, 6, 16; 353.668, subdivision 4; 356.215, subdivision 8; Laws 2002, chapter 392, article 1, section 8; proposing coding for new law in Minnesota Statutes, chapters 16A; 353; 354; repealing Minnesota Statutes 2010, sections 128D.18; 352.91, subdivision 3e; 354A.12, subdivision 3b; 356.219, subdivision 4; 423A.06; Laws 1947, chapter 624, sections 1; 2; 3; 4; 5; 6; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 21; 22; Laws 1953, chapter 399, as amended; Laws 1961, chapter 420, sections 2, as amended; 3; 4; 5, as amended; 6; Laws 1963, chapter 407, section 1, as amended; Laws 1963, chapter 423; Laws 1965, chapter 546, sections 1; 2, as amended; 3; Laws 1969, chapter 578, sections 1; 2; 3; Laws 1974, chapter 183, as amended; Laws 1982, chapter 574, section 1; Laws 1982, chapter 578, article 1, section 14; Laws 1983, chapter 69, section 1; Laws 1984, chapter 547, section 27; Laws 1987, chapter 372, article 2, section 14; Laws 1988, chapter 709, sections 1, as amended; 2; Laws 1991, chapter 62, sections 1; 2; Laws 1992, chapter 465, section 1; Laws 1999, chapter 222, article 3, sections 3; 4; 5."

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.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 2269, A bill for an act relating to elections; determining funds for Help America Vote Act; appropriating money.

Reported the same back with the following amendments:

Page 1, line 6, delete "\$1,425,000" and insert "\$1,080,000"

Page 1, line 8, after the period, insert "\$100,000 of this appropriation may be used only for costs associated with implementation of laws enacted in 2012 dealing with election administration procedures for individuals who have been convicted of a felony."

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.

Abeler from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 2294, A bill for an act relating to human services; providing a supplementary rate for a certain group residential housing provider; modifying the general assistance program; modifying early childhood learning and child protection facilities; amending Minnesota Statutes 2010, sections 256D.06, subdivision 1b; 256E.37, subdivision 1; 256I.05, subdivision 1e.

Reported the same back with the following amendments:



Delete everything after the enacting clause and insert:

"ARTICLE 1  
HEALTH CARE

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. **Dental services.** (a) Medical assistance covers dental services.

(b) Medical assistance dental coverage for nonpregnant adults is limited to the following services:

(1) comprehensive exams, limited to once every five years;

(2) periodic exams, limited to one per year;

(3) limited exams;

(4) bitewing x-rays, limited to one per year;

(5) periapical x-rays;

(6) panoramic x-rays, limited to one every five years except (1) when medically necessary for the diagnosis and follow-up of oral and maxillofacial pathology and trauma or (2) once every two years for patients who cannot cooperate for intraoral film due to a developmental disability or medical condition that does not allow for intraoral film placement;

(7) prophylaxis, limited to one per year;

(8) application of fluoride varnish, limited to one per year;

(9) posterior fillings, all at the amalgam rate;

(10) anterior fillings;

(11) endodontics, limited to root canals on the anterior and premolars only;

(12) removable prostheses, each dental arch limited to one every six years;

(13) oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;

(14) palliative treatment and sedative fillings for relief of pain; and

(15) full-mouth debridement, limited to one every five years.

(c) In addition to the services specified in paragraph (b), medical assistance covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:

(1) periodontics, limited to periodontal scaling and root planing once every two years;

(2) general anesthesia; and

(3) full-mouth survey once every five years.

(d) Medical assistance covers medically necessary dental services for children and pregnant women. The following guidelines apply:

(1) posterior fillings are paid at the amalgam rate;

(2) application of sealants are covered once every five years per permanent molar for children only;

(3) application of fluoride varnish is covered once every six months; and

(4) orthodontia is eligible for coverage for children only.

(e) In addition to the services specified in paragraphs (b) and (c), medical assistance covers the following services for developmentally disabled adults:

(1) behavioral management when additional staff time is required to accommodate behavioral challenges and sedation is not used; and

(2) oral or IV conscious sedation, if the covered dental service cannot be performed safely without it or would otherwise require the service to be performed under general anesthesia in a hospital or surgical center.

Sec. 2. Minnesota Statutes 2010, section 256B.0625, is amended by adding a subdivision to read:

Subd. 18c. **Nonemergency Medical Transportation Advisory Committee.** (a) The 17-member Nonemergency Medical Transportation Advisory Committee shall advise the commissioner on the administration of nonemergency medical transportation covered under medical assistance. The advisory committee shall meet at least quarterly and may meet more frequently as required by the commissioner. The advisory committee shall annually elect a chair from among its members, who shall work with the commissioner or the commissioner's designee to establish the agenda for each meeting.

(b) The Nonemergency Medical Transportation Advisory Committee shall advise and make recommendations to the commissioner on:

(1) the development of, and periodic updates to, a policy manual for nonemergency medical transportation services;

(2) policies and a funding source for reimbursing no-load miles;

(3) policies to prevent waste, fraud, and abuse, and to improve the efficiency of the nonemergency medical transportation system;

(4) other issues identified in the 2011 evaluation report by the Office of the Legislative Auditor on medical nonemergency transportation; and

(5) other aspects of the nonemergency medical transportation system, as requested by the commissioner.

(c) The Nonemergency Medical Transportation Advisory Committee shall coordinate its activities with the Minnesota Council on Transportation Access established under section 174.285.

(d) The Nonemergency Medical Transportation Advisory Committee shall expire December 1, 2014.

Sec. 3. Minnesota Statutes 2010, section 256B.0625, is amended by adding a subdivision to read:

Subd. 18d. **Advisory committee members.** (a) The Nonemergency Medical Transportation Advisory Committee consists of:

(1) two voting members who represent counties, at least one of whom must represent a county or counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright;

(2) four voting members who represent medical assistance recipients, including persons with physical and developmental disabilities, persons with mental illness, seniors, children, and low-income individuals;

(3) four voting members who represent providers that deliver nonemergency medical transportation services to medical assistance enrollees;

(4) two voting members of the house of representatives, one from the majority party and one from the minority party, appointed by the speaker of the house, and two voting members from the senate, one from the majority party and one from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration;

(5) one voting member who represents demonstration providers as defined in section 256B.69, subdivision 2;

(6) one voting member who represents an organization that contracts with state or local governments to coordinate transportation services for medical assistance enrollees; and

(7) the commissioner of transportation or the commissioner's designee, who shall serve as a voting member.

(b) Members of the advisory committee shall not be employed by the Department of Human Services.

Sec. 4. Minnesota Statutes 2010, section 256B.0625, subdivision 28a, is amended to read:

Subd. 28a. **Licensed physician assistant services.** (a) Medical assistance covers services performed by a licensed physician assistant if the service is otherwise covered under this chapter as a physician service and if the service is within the scope of practice of a licensed physician assistant as defined in section 147A.09.

(b) Licensed physician assistants, who are supervised by a physician certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry, may bill for medication management and evaluation and management services provided to medical assistance enrollees in inpatient hospital settings, consistent with their authorized scope of practice, as defined in section 147A.09, with the exception of performing psychotherapy or providing clinical supervision.

Sec. 5. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision 38, is amended to read:

Subd. 38. **Payments for mental health services.** Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals shall be 80 percent of the rate paid to doctoral-prepared professionals. Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals employed by community mental health centers shall be 100 percent of the rate paid to doctoral-prepared professionals. Payments for mental health services covered under the medical assistance program that are provided by physician assistants shall be 65 percent of the rate paid to doctoral-prepared professionals.

Sec. 6. Minnesota Statutes 2010, section 256B.0625, is amended by adding a subdivision to read:

Subd. 60. **Community paramedic services.** (a) Medical assistance covers services provided by community paramedics who are certified under section 144E.28, subdivision 9, when the services are provided in accordance with this subdivision to an eligible recipient as defined in paragraph (b).

(b) For purposes of this subdivision, an eligible recipient is defined as an individual who has received hospital emergency department services three or more times in a period of four consecutive months in the past 12 months, or an individual who has been identified by the individual's primary health care provider for whom community paramedic services identified in paragraph (c) would likely prevent admission to or would allow discharge from a nursing facility, or would likely prevent readmission to a hospital or nursing facility.

(c) Payment for services provided by a community paramedic under this subdivision must be a part of a care plan ordered by a primary health care provider in consultation with the medical director of an ambulance service and must be billed by an eligible provider enrolled in medical assistance that employs or contracts with the community paramedic. The care plan must ensure that the services provided by a community paramedic are coordinated with other community health providers and local public health agencies and that community paramedic services do not duplicate services already provided to the patient, including home health and waiver services. Community paramedic services shall include health assessment, chronic disease monitoring and education, medication compliance, immunizations and vaccinations, laboratory specimen collection, hospital discharge follow-up care, and minor medical procedures approved by the ambulance medical director.

(d) Services provided by a community paramedic to an eligible recipient who is also receiving care coordination services must be in consultation with the providers of the recipient's care coordination services.

(e) The commissioner shall seek the necessary federal approval to implement this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2012, or upon federal approval, whichever is later.

Sec. 7. Minnesota Statutes 2010, section 256B.0751, is amended by adding a subdivision to read:

Subd. 9. **Pediatric care coordination.** The commissioner shall implement a pediatric care coordination service for children with high-cost medical or high-cost psychiatric conditions who are at risk of recurrent hospitalization or emergency room use for acute, chronic, or psychiatric illness, who receive medical assistance services. Care coordination services must be targeted to children not already receiving care coordination through another service and may include but are not limited to the provision of health care home services to children admitted to hospitals that do not currently provide care coordination. Care coordination services must be provided by care coordinators who are directly linked to provider teams in the care delivery setting, but who may be part of a community care team shared by multiple primary care providers or practices. For purposes of this subdivision, the commissioner shall, to the extent possible, use the existing health care home certification and payment structure established under this section and section 256B.0753.

Sec. 8. Minnesota Statutes 2010, section 256B.441, is amended by adding a subdivision to read:

Subd. 63. **Special needs nursing facility rate adjustment.** The commissioner may increase the medical assistance payment rate for a nursing facility that is participating in a health care delivery system demonstration project under sections 256B.0755 or 256B.0756, or another care coordination project, if the nursing facility has agreed to accept patients enrolled in the project in order to reduce hospital or emergency room admissions or readmissions, shorten the length of inpatient hospital stays, or prevent a medical emergency that would require more costly treatment. The higher rate must reflect the higher costs of participating in the care coordination demonstration project and the higher costs of serving patients with more complex medical, dental, mental health, and socioeconomic conditions.

Sec. 9. Minnesota Statutes 2011 Supplement, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and section 256L.12 shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B and 256L is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B and 256L established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. Clinical or utilization performance targets and their related criteria must be based on evidence-based research showing they can be achieved through reasonable interventions, and developed with input from independent clinical experts and stakeholders, including managed care plans and providers. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23.

(d) Effective for services rendered on or after January 1, 2009, through December 31, 2009, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(e) Effective for services provided on or after January 1, 2010, the commissioner shall require that managed care plans use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section 256B.0659.

(f) Effective for services rendered on or after January 1, 2010, through December 31, 2010, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(g) Effective for services rendered on or after January 1, 2011, through December 31, 2011, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the health plan's emergency room utilization rate for state health care program enrollees by a measurable rate of five percent from the plan's

utilization rate for state health care program enrollees for the previous calendar year. Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the health plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. For calendar year 2012, the reduction shall be based on the health plan's utilization in calendar year 2009, and to earn the return of the withhold for that year, the plan must achieve a qualifying reduction of no less than ten percent compared to calendar year 2009. To earn the return of the withhold each subsequent year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than ten percent of the plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, compared to the previous calendar year, until the final performance target is reached. Measurement of performance shall take into account the difference in health risk in a plan's membership in the baseline year compared to the measurement year.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue for each consecutive contract period until the plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance and MinnesotaCare enrollees for calendar year ~~2011~~ 2009. Hospitals shall cooperate with the health plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(h) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than five percent of the plan's hospital admission rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, compared to the previous calendar year until the final performance target is reached. Measurement of performance shall take into account the difference in health risk in a plan's membership in the baseline year compared to the measurement year.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue until there is a 25 percent reduction in the hospital admission rate compared to the hospital admission rates in calendar year 2011, as determined by the commissioner. The hospital admissions in this performance target do not include the admissions applicable to the subsequent hospital admission performance target under paragraph (i). Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(i) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rates for subsequent hospitalizations within 30 days of a previous hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of

the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, of no less than five percent compared to the previous calendar year until the final performance target is reached.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a qualifying reduction in the subsequent hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph must continue for each consecutive contract period until the plan's subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that must be returned to the hospitals if the performance target is achieved.

(j) Effective for services rendered on or after January 1, 2011, through December 31, 2011, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(k) Effective for services rendered on or after January 1, 2012, through December 31, 2012, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(l) Effective for services rendered on or after January 1, 2013, through December 31, 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(m) Effective for services rendered on or after January 1, 2014, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(n) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

(o) Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and 7.

(p) The return of the withhold under paragraphs (d), (f), and (j) to (m) is not subject to the requirements of paragraph (c).

Sec. 10. Minnesota Statutes 2011 Supplement, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. **Medical education and research fund.** (a) The commissioner of human services shall transfer each year to the medical education and research fund established under section 62J.692, an amount specified in this subdivision. The commissioner shall calculate the following:

(1) an amount equal to the reduction in the prepaid medical assistance payments as specified in this clause. Until January 1, 2002, the county medical assistance capitation base rate prior to plan specific adjustments and after the regional rate adjustments under subdivision 5b is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and no reduction for nonmetropolitan Minnesota counties; and after January 1, 2002, the county medical assistance capitation base rate prior to plan specific adjustments is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties. Nursing facility and elderly waiver payments and demonstration project payments operating under subdivision 23 are excluded from this reduction. The amount calculated under this clause shall not be adjusted for periods already paid due to subsequent changes to the capitation payments;

(2) beginning July 1, 2003, \$4,314,000 from the capitation rates paid under this section;

(3) beginning July 1, 2002, an additional \$12,700,000 from the capitation rates paid under this section; and

(4) beginning July 1, 2003, an additional \$4,700,000 from the capitation rates paid under this section.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research fund. The amount specified under paragraph (a), clauses (1) to (4), shall not exceed the total amount transferred for fiscal year 2009. Any excess shall first reduce the amounts specified under paragraph (a), clauses (2) to (4). Any excess following this reduction shall proportionally reduce the amount specified under paragraph (a), clause (1).

(c) Beginning September 1, 2011, of the amount in paragraph (a), the commissioner shall transfer \$21,714,000 each fiscal year to the medical education and research fund.

(d) Beginning September 1, 2011, of the amount in paragraph (a), following the transfer under paragraph (c), the commissioner shall transfer to the medical education research fund \$23,936,000 in fiscal ~~years~~ year 2012 ~~and~~, \$24,936,000 in fiscal year 2013, and ~~\$36,744,000~~ \$37,744,000 in fiscal year 2014 and thereafter.

Sec. 11. Minnesota Statutes 2010, section 256B.69, subdivision 9, is amended to read:

Subd. 9. **Reporting.** (a) Each demonstration provider shall submit information as required by the commissioner, including data required for assessing client satisfaction, quality of care, cost, and utilization of services for purposes of project evaluation. The commissioner shall also develop methods of data reporting and collection in order to provide aggregate enrollee information on encounters and outcomes to determine access and quality assurance. Required information shall be specified before the commissioner contracts with a demonstration provider.

(b) Aggregate nonpersonally identifiable health plan encounter data, aggregate spending data for major categories of service as reported to the commissioners of health and commerce under section 62D.08, subdivision 3, clause (a), and criteria for service authorization and service use are public data that the commissioner shall make available and use in public reports. The commissioner shall require each health plan and county-based purchasing plan to provide:



(1) encounter data for each service provided, using standard codes and unit of service definitions set by the commissioner, in a form that the commissioner can report by age, eligibility groups, and health plan; and

(2) criteria, written policies, and procedures required to be disclosed under section 62M.10, subdivision 7, and Code of Federal Regulations, title 42, part 438.210(b)(1), used for each type of service for which authorization is required.

(c) Each demonstration provider shall report to the commissioner on the extent to which providers employed by or under contract with the demonstration provider use patient-centered decision-making tools or procedures designed to engage patients early in the decision-making process and the steps taken by the demonstration provider to encourage their use.

Sec. 12. Minnesota Statutes 2010, section 256B.69, is amended by adding a subdivision to read:

Subd. 32. **Initiatives to reduce incidence of low birth weight.** The commissioner shall require managed care and county-based purchasing plans, as a condition of contract, to implement strategies to reduce the incidence of low birth weight in geographic areas identified by the commissioner as having a higher than average incidence of low birth weight. The strategies must coordinate health care with social services and the local public health system. Each plan shall develop and report to the commissioner outcome measures related to reducing the incidence of low birth weight. The commissioner shall consider the outcomes reported when considering plan participation in the competitive bidding program established under subdivision 33.

Sec. 13. Minnesota Statutes 2010, section 256B.69, is amended by adding a subdivision to read:

Subd. 33. **Competitive bidding.** (a) For managed care contracts effective on or after January 1, 2014, the commissioner may utilize a competitive price bidding program for nonelderly, nondisabled adults and children in medical assistance and MinnesotaCare in the seven-county metropolitan area. The program must allow a minimum of two managed care plans to serve the metropolitan area.

(b) In designing the competitive bid program, the commissioner shall consider, and incorporate where appropriate, the procedures and criteria used in the competitive bidding pilot authorized under Laws 2011, First Special Session chapter 9, article 6, section 96.

(c) The commissioner shall use past performance data as a factor in selecting vendors and shall consider this information, along with competitive bid and other information, in determining whether to contract with a managed care plan under this subdivision. Where possible, the assessment of past performance in serving persons on public programs shall be based on encounter data submitted to the commissioner. The commissioner shall evaluate past performance based on both the health outcomes of care and success rates in securing participation in recommended preventive and early diagnostic care. Data provided by managed care plans must be provided in a uniform manner as specified by the commissioner and must include only data on medical assistance and MinnesotaCare enrollees. The data submitted must include health outcome measures on reducing the incidence of low birth weight established by the managed care plan under subdivision 32.

Sec. 14. Minnesota Statutes 2011 Supplement, section 256L.12, subdivision 9, is amended to read:

Subd. 9. **Rate setting; performance withholds.** (a) Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates.

(b) For services rendered on or after January 1, 2004, the commissioner shall withhold five percent of managed care plan payments and county-based purchasing plan payments under this section pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably

attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. Clinical or utilization performance targets and their related criteria must be based on evidence-based research showing they can be achieved through reasonable interventions, and developed with input from independent clinical experts and stakeholders, including managed care plans and providers. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, such as characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if performance targets in the contract are achieved.

(c) For services rendered on or after January 1, 2011, the commissioner shall withhold an additional three percent of managed care plan or county-based purchasing plan payments under this section. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year. The return of the withhold under this paragraph is not subject to the requirements of paragraph (b).

(d) Effective for services rendered on or after January 1, 2011, through December 31, 2011, the commissioner shall include as part of the performance targets described in paragraph (b) a reduction in the plan's emergency room utilization rate for state health care program enrollees by a measurable rate of five percent from the plan's utilization rate for the previous calendar year. Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (b) a reduction in the health plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. For calendar year 2012, the reduction shall be based on the health plan's utilization in calendar year 2009, and to earn the return of the withhold for that year, the plan must achieve a qualifying reduction of no less than ten percent compared to calendar year 2009. To earn the return of the withhold each subsequent year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than ten percent of the plan's utilization rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, compared to the previous calendar year, until the final performance target is reached. Measurement of performance shall take into account the difference in health risk in a plan's membership in the baseline year compared to the measurement year.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue for each consecutive contract period until the plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance and MinnesotaCare enrollees for calendar year ~~2011~~ 2009. Hospitals shall cooperate with the health plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(e) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (b) a reduction in the plan's hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than five percent of the plan's hospital admission rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, compared to the previous calendar year, until the final performance target is reached. Measurement of performance shall take into account the difference in health risk in a plan's membership in the baseline year compared to the measurement year.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue until there is a 25 percent reduction in the hospitals admission rate compared to the hospital admission rate for calendar year 2011 as determined by the commissioner. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved. The hospital admissions in this performance target do not include the admissions applicable to the subsequent hospital admission performance target under paragraph (f).

(f) Effective for services provided on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (b) a reduction in the plan's hospitalization rate for a subsequent hospitalization within 30 days of a previous hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of the subsequent hospital admissions rate for medical assistance and MinnesotaCare enrollees, excluding Medicare enrollees, of no less than five percent compared to the previous calendar year until the final performance target is reached.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the subsequent hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph must continue for each consecutive contract period until the plan's subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that must be returned to the hospitals if the performance target is achieved.

(g) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

Sec. 15. **DATA ON CLAIMS AND UTILIZATION.**

The commissioner of human services shall develop and provide to the legislature by December 15, 2012, a methodology and any draft legislation necessary to allow for the release, upon request, of summary data as defined in Minnesota Statutes, section 13.02, subdivision 19, on claims and utilization for medical assistance and MinnesotaCare enrollees at no charge to the University of Minnesota Medical School, the Mayo Medical School, Northwestern Health Sciences University, the Institute for Clinical Systems Improvement, and other research institutions in Minnesota to conduct analyses of health care outcomes and treatment effectiveness, provided:

(1) a data-sharing agreement is in place that ensures compliance with the Minnesota Government Data Practices Act;

(2) the commissioner of human services determines that the work would produce analyses useful in the administration of the medical assistance or MinnesotaCare programs; and

(3) the research institutions do not release private or nonpublic data or data for which dissemination is prohibited by law.

Sec. 16. **MANAGING MEDICAL ASSISTANCE FEE-FOR-SERVICE CARE DELIVERY.**

The commissioner of human services shall issue, by July 1, 2012, a request for proposals to develop and administer a care delivery management system for medical assistance enrollees served under fee-for-service. The care delivery management system must improve health care quality and reduce unnecessary health care costs through the: (1) use of predictive modeling tools and comprehensive patient encounter data to identify missed preventive care and other gaps in health care delivery and to identify chronically ill and high-cost enrollees for targeted interventions and care management; (2) use of claims data to evaluate health care providers for overall quality and cost-effectiveness and make this information available to enrollees; and (3) establishment of a program integrity initiative to reduce fraudulent or improper billing. The commissioner shall award a contract under the request for proposals to a Minnesota-based organization by October 1, 2012. The contract must require the organization to implement the care delivery management system by July 1, 2013.

Sec. 17. **PHYSICIAN ASSISTANTS AND OUTPATIENT MENTAL HEALTH.**

The commissioner of human services shall convene a group of interested stakeholders to assist the commissioner in developing recommendations on how to improve access to, and the quality of, outpatient mental health services for medical assistance enrollees through the use of physician assistants. The commissioner shall report these recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and financing by January 15, 2013.

ARTICLE 2  
DEPARTMENT OF HEALTH

Section 1. Minnesota Statutes 2010, section 62D.02, subdivision 3, is amended to read:

Subd. 3. **Commissioner of ~~health~~ commerce or commissioner.** "Commissioner of ~~health~~ commerce" or "commissioner" means the state commissioner of ~~health~~ commerce or a designee.

**EFFECTIVE DATE.** This section is effective August 1, 2012.

Sec. 2. Minnesota Statutes 2010, section 62D.05, subdivision 6, is amended to read:

Subd. 6. **Supplemental benefits.** (a) A health maintenance organization may, as a supplemental benefit, provide coverage to its enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization. Supplemental benefits may be provided if the following conditions are met:

(1) a health maintenance organization desiring to offer supplemental benefits must at all times comply with the requirements of sections 62D.041 and 62D.042;

(2) a health maintenance organization offering supplemental benefits must maintain an additional surplus in the first year supplemental benefits are offered equal to the lesser of \$500,000 or 33 percent of the supplemental benefit expenses. At the end of the second year supplemental benefits are offered, the health maintenance organization must maintain an additional surplus equal to the lesser of \$1,000,000 or 33 percent of the supplemental benefit expenses. At the end of the third year benefits are offered and every year after that, the health maintenance organization must maintain an additional surplus equal to the greater of \$1,000,000 or 33 percent of the supplemental benefit expenses. When in the judgment of the commissioner the health maintenance organization's surplus is inadequate, the commissioner may require the health maintenance organization to maintain additional surplus;

(3) claims relating to supplemental benefits must be processed in accordance with the requirements of section 72A.201; and

(4) in marketing supplemental benefits, the health maintenance organization shall fully disclose and describe to enrollees and potential enrollees the nature and extent of the supplemental coverage, and any claims filing and other administrative responsibilities in regard to supplemental benefits.

(b) The commissioner may, pursuant to chapter 14, adopt, enforce, and administer rules relating to this subdivision, including: rules insuring that these benefits are supplementary and not substitutes for comprehensive health maintenance services by addressing percentage of out-of-plan coverage; rules relating to the establishment of necessary financial reserves; rules relating to marketing practices; and other rules necessary for the effective and efficient administration of this subdivision. ~~The commissioner, in adopting rules, shall give consideration to existing laws and rules administered and enforced by the Department of Commerce relating to health insurance plans.~~

**EFFECTIVE DATE.** This section is effective August 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 62D.12, subdivision 1, is amended to read:

Subdivision 1. **False representations.** No health maintenance organization or representative thereof may cause or knowingly permit the use of advertising or solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. Each health maintenance organization shall be subject to sections 72A.17 to 72A.32, relating to the regulation of trade practices, except ~~(a)~~ to the extent that the nature of a health maintenance organization renders such sections clearly inappropriate ~~and (b) that enforcement shall be by the commissioner of health and not by the commissioner of commerce.~~ Every health maintenance organization shall be subject to sections 8.31 and 325F.69.

**EFFECTIVE DATE.** This section is effective August 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 62Q.80, is amended to read:

**62Q.80 COMMUNITY-BASED HEALTH CARE COVERAGE PROGRAM.**

Subdivision 1. **Scope.** (a) Any community-based health care initiative may develop and operate community-based health care coverage programs that offer to eligible individuals and their dependents the option of purchasing through their employer health care coverage on a fixed prepaid basis without meeting the requirements of chapter 60A, 62A, 62C, 62D, 62M, 62N, 62Q, 62T, or 62U, or any other law or rule that applies to entities licensed under these chapters.

(b) Each initiative shall establish health outcomes to be achieved through the programs and performance measurements in order to determine whether these outcomes have been met. The outcomes must include, but are not limited to:

(1) a reduction in uncompensated care provided by providers participating in the community-based health network;

(2) an increase in the delivery of preventive health care services; and

(3) health improvement for enrollees with chronic health conditions through the management of these conditions.

In establishing performance measurements, the initiative shall use measures that are consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures.

(c) Any program established under this section shall not constitute a financial liability for the state, in that any financial risk involved in the operation or termination of the program shall be borne by the community-based initiative and the participating health care providers.

~~Subd. 1a. **Demonstration project.** The commissioner of health and the commissioner of human services shall award demonstration project grants to community-based health care initiatives to develop and operate community-based health care coverage programs in Minnesota. The demonstration projects shall extend for five years and must comply with the requirements of this section.~~

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Community-based" means located in or primarily relating to the community, as determined by the board of a community-based health initiative that is served by the community-based health care coverage program.

(b) "Community-based health care coverage program" or "program" means a program administered by a community-based health initiative that provides health care services through provider members of a community-based health network or combination of networks to eligible individuals and their dependents who are enrolled in the program.

(c) "Community-based health initiative" or "initiative" means a nonprofit corporation that is governed by a board that has at least 80 percent of its members residing in the community and includes representatives of the participating network providers and employers, or a county-based purchasing organization as defined in section 256B.692.

(d) "Community-based health network" means a contract-based network of health care providers organized by the community-based health initiative to provide or support the delivery of health care services to enrollees of the community-based health care coverage program on a risk-sharing or nonrisk-sharing basis.

(e) "Dependent" means an eligible employee's spouse or unmarried child who is under the age of 19 years.

Subd. 3. **Approval.** (a) Prior to the operation of a community-based health care coverage program, a community-based health initiative, defined in subdivision 2, paragraph (c), ~~and receiving funds from the Department of Health,~~ shall submit to the commissioner of health for approval the community-based health care coverage program developed by the initiative. ~~Each community-based health initiative as defined in subdivision 2, paragraph (c), and receiving State Health Access Program (SHAP) grant funding shall submit to the commissioner of human services for approval prior to its operation the community-based health care coverage programs developed by the initiatives.~~ The ~~commissioners~~ commissioner shall ensure that each program meets ~~the federal grant requirements and any~~ requirements described in this section and is actuarially sound based on a review of appropriate records and methods utilized by the community-based health initiative in establishing premium rates for the community-based health care coverage programs.

(b) Prior to approval, the commissioner shall also ensure that:

(1) the benefits offered comply with subdivision 8 and that there are adequate numbers of health care providers participating in the community-based health network to deliver the benefits offered under the program;

(2) the activities of the program are limited to activities that are exempt under this section or otherwise from regulation by the commissioner of commerce;

(3) the complaint resolution process meets the requirements of subdivision 10; and

(4) the data privacy policies and procedures comply with state and federal law.

Subd. 4. **Establishment.** The initiative shall establish and operate upon approval by the ~~commissioners~~ commissioner of health ~~and human services~~ community-based health care coverage programs. The operational structure established by the initiative shall include, but is not limited to:

(1) establishing a process for enrolling eligible individuals and their dependents;

(2) collecting and coordinating premiums from enrollees and employers of enrollees;

(3) providing payment to participating providers;

(4) establishing a benefit set according to subdivision 8 and establishing premium rates and cost-sharing requirements;

(5) creating incentives to encourage primary care and wellness services; and

(6) initiating disease management services, as appropriate.

Subd. 5. **Qualifying employees.** To be eligible for the community-based health care coverage program, an individual must:

(1) reside in or work within the designated community-based geographic area served by the program;

(2) be employed by a qualifying employer, be an employee's dependent, or be self-employed on a full-time basis;

(3) not be enrolled in or have currently available health coverage, except for catastrophic health care coverage; and

(4) not be eligible for or enrolled in medical assistance or general assistance medical care, and not be enrolled in MinnesotaCare or Medicare.

Subd. 6. **Qualifying employers.** (a) To qualify for participation in the community-based health care coverage program, an employer must:

(1) employ at least one but no more than 50 employees at the time of initial enrollment in the program;

(2) pay its employees a median wage that equals 350 percent of the federal poverty guidelines or less for an individual; and

(3) not have offered employer-subsidized health coverage to its employees for at least 12 months prior to the initial enrollment in the program. For purposes of this section, "employer-subsidized health coverage" means health care coverage for which the employer pays at least 50 percent of the cost of coverage for the employee.

(b) To participate in the program, a qualifying employer agrees to:

(1) offer health care coverage through the program to all eligible employees and their dependents regardless of health status;

(2) participate in the program for an initial term of at least one year;

(3) pay a percentage of the premium established by the initiative for the employee; and

(4) provide the initiative with any employee information deemed necessary by the initiative to determine eligibility and premium payments.

Subd. 7. **Participating providers.** Any health care provider participating in the community-based health network must accept as payment in full the payment rate established by the initiatives and may not charge to or collect from an enrollee any amount in excess of this amount for any service covered under the program.

Subd. 8. **Coverage.** (a) The initiatives shall establish the health care benefits offered through the community-based health care coverage programs. The benefits established shall include, at a minimum:

(1) child health supervision services up to age 18, as defined under section 62A.047; and

(2) preventive services, including:

(i) health education and wellness services;

(ii) health supervision, evaluation, and follow-up;

(iii) immunizations; and

(iv) early disease detection.

(b) Coverage of health care services offered by the program may be limited to participating health care providers or health networks. All services covered under the programs must be services that are offered within the scope of practice of the participating health care providers.

(c) The initiatives may establish cost-sharing requirements. Any co-payment or deductible provisions established may not discriminate on the basis of age, sex, race, disability, economic status, or length of enrollment in the programs.

(d) If any of the initiatives amends or alters the benefits offered through the program from the initial offering, that initiative must notify the ~~commissioners~~ commissioner of health and ~~human services~~ and all enrollees of the benefit change.

Subd. 9. **Enrollee information.** (a) The initiatives must provide an individual or family who enrolls in the program a clear and concise written statement that includes the following information:

(1) health care services that are covered under the program;

(2) any exclusions or limitations on the health care services covered, including any cost-sharing arrangements or prior authorization requirements;

(3) a list of where the health care services can be obtained and that all health care services must be provided by or through a participating health care provider or community-based health network;



(4) a description of the program's complaint resolution process, including how to submit a complaint; how to file a complaint with the commissioner of health; and how to obtain an external review of any adverse decisions as provided under subdivision 10;

(5) the conditions under which the program or coverage under the program may be canceled or terminated; and

(6) a precise statement specifying that this program is not an insurance product and, as such, is exempt from state regulation of insurance products.

(b) The ~~commissioners~~ commissioner of health ~~and human services~~ must approve a copy of the written statement prior to the operation of the program.

Subd. 10. **Complaint resolution process.** (a) The initiatives must establish a complaint resolution process. The process must make reasonable efforts to resolve complaints and to inform complainants in writing of the initiative's decision within 60 days of receiving the complaint. Any decision that is adverse to the enrollee shall include a description of the right to an external review as provided in paragraph (c) and how to exercise this right.

(b) The initiatives must report any complaint that is not resolved within 60 days to the commissioner of health.

(c) The initiatives must include in the complaint resolution process the ability of an enrollee to pursue the external review process provided under section 62Q.73 with any decision rendered under this external review process binding on the initiatives.

Subd. 11. **Data privacy.** The initiatives shall establish data privacy policies and procedures for the program that comply with state and federal data privacy laws.

Subd. 12. **Limitations on enrollment.** (a) The initiatives may limit enrollment in the program. If enrollment is limited, a waiting list must be established.

(b) The initiatives shall not restrict or deny enrollment in the program except for nonpayment of premiums, fraud or misrepresentation, or as otherwise permitted under this section.

(c) The initiatives may require a certain percentage of participation from eligible employees of a qualifying employer before coverage can be offered through the program.

Subd. 13. **Report.** Each initiative shall submit ~~quarterly~~ an annual status ~~reports~~ report to the commissioner of health on January 15, ~~April 15, July 15, and October 15~~ of each year, with the first report due January 15, 2008. ~~Each initiative receiving funding from the Department of Human Services shall submit status reports to the commissioner of human services as defined in the terms of the contract with the Department of Human Services.~~ Each status report shall include:

(1) the financial status of the program, including the premium rates, cost per member per month, claims paid out, premiums received, and administrative expenses;

(2) a description of the health care benefits offered and the services utilized;

(3) the number of employers participating, the number of employees and dependents covered under the program, and the number of health care providers participating;

(4) a description of the health outcomes to be achieved by the program and a status report on the performance measurements to be used and collected; and

(5) any other information requested by the ~~commissioners~~ commissioner of health, ~~human services~~, or commerce or the legislature.

~~Subd. 14. **Sunset.** This section expires August 31, 2014.~~

Sec. 5. Minnesota Statutes 2010, section 62U.04, subdivision 1, is amended to read:

Subdivision 1. **Development of tools to improve costs and quality outcomes.** The commissioner of health shall develop a plan to create transparent prices, encourage greater provider innovation and collaboration across points on the health continuum in cost-effective, high-quality care delivery, reduce the administrative burden on providers and health plans associated with submitting and processing claims, and provide comparative information to consumers on variation in health care cost and quality across providers. ~~The development must be complete by January 1, 2010.~~

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 6. Minnesota Statutes 2010, section 62U.04, subdivision 2, is amended to read:

Subd. 2. **Calculation of health care costs and quality.** The commissioner of health shall develop a uniform method of calculating providers' relative cost of care, defined as a measure of health care spending including resource use and unit prices, and relative quality of care. In developing this method, the commissioner must address the following issues:

- (1) provider attribution of costs and quality;
- (2) appropriate adjustment for outlier or catastrophic cases;
- (3) appropriate risk adjustment to reflect differences in the demographics and health status across provider patient populations, using generally accepted and transparent risk adjustment methodologies and case mix adjustment;
- (4) specific types of providers that should be included in the calculation;
- (5) specific types of services that should be included in the calculation;
- (6) appropriate adjustment for variation in payment rates;
- (7) the appropriate provider level for analysis;
- (8) payer mix adjustments, including variation across providers in the percentage of revenue received from government programs; and
- (9) other factors that the commissioner ~~determines~~ and the advisory committee, established under subdivision 3, determine are needed to ensure validity and comparability of the analysis.

**EFFECTIVE DATE.** This section is effective July 1, 2012, and applies to all information provided or released to the public or to health care providers, pursuant to Minnesota Statutes, section 62U.04, on or after that date.

Sec. 7. Minnesota Statutes 2011 Supplement, section 62U.04, subdivision 3, is amended to read:

Subd. 3. **Provider peer grouping; system development; advisory committee.** (a) The commissioner shall develop a peer grouping system for providers ~~based on a combined measure~~ that incorporates both provider risk-adjusted cost of care and quality of care, and for specific conditions as determined by the commissioner. ~~In developing this system, the commissioner shall consult and coordinate with health care providers, health plan companies, state agencies, and organizations that work to improve health care quality in Minnesota.~~ For purposes of the final establishment of the peer grouping system, the commissioner shall not contract with any private entity, organization, or consortium of entities that has or will have a direct financial interest in the outcome of the system.

(b) The commissioner shall establish an advisory committee comprised of representatives of health care providers, health plan companies, consumers, state agencies, employers, academic researchers, and organizations that work to improve health care quality in Minnesota. The advisory committee shall meet no fewer than three times per year. The commissioner shall consult with the advisory committee in developing and administering the peer grouping system, including but not limited to the following activities:

(1) establishing peer groups;

(2) selecting quality measures;

(3) recommending thresholds for completeness of data and statistical significance for the purposes of public release of provider peer grouping results;

(4) considering whether adjustments are necessary for facilities that provide medical education, level 1 trauma services, neonatal intensive care, or inpatient psychiatric care;

(5) recommending inclusion or exclusion of other costs; and

(6) adopting patient attribution and quality and cost-scoring methodologies.

Subd. 3a. **Provider peer grouping; dissemination of data to providers.** ~~(b) By no later than October 15, 2010,~~ (a) The commissioner shall disseminate information to providers on their total cost of care, total resource use, total quality of care, and the total care results of the grouping developed under ~~this~~ subdivision 3 in comparison to an appropriate peer group. Data used for this analysis must be the most recent data available. Any analyses or reports that identify providers may only be published after the provider has been provided the opportunity by the commissioner to review the underlying data in order to verify, consistent with the findings specified in subdivision 3c, paragraph (d), the accuracy and representativeness of any analyses or reports and submit comments to the commissioner or initiate an appeal under subdivision 3b. ~~Providers may~~ Upon request, providers shall be given any data for which they are the subject of the data. The provider shall have ~~30~~ 60 days to review the data for accuracy and initiate an appeal as specified in ~~paragraph (d)~~ subdivision 3b.

~~(c) By no later than January 1, 2011,~~ (b) The commissioner shall disseminate information to providers on their condition-specific cost of care, condition-specific resource use, condition-specific quality of care, and the condition-specific results of the grouping developed under ~~this~~ subdivision 3 in comparison to an appropriate peer group. Data used for this analysis must be the most recent data available. Any analyses or reports that identify providers may only be published after the provider has been provided the opportunity by the commissioner to review the underlying data in order to verify, consistent with the findings specified in subdivision 3c, paragraph (d), the accuracy and representativeness of any analyses or reports and submit comments to the commissioner or initiate an appeal under subdivision 3b. ~~Providers may~~ Upon request, providers shall be given any data for which they are the subject of the data. The provider shall have ~~30~~ 60 days to review the data for accuracy and initiate an appeal as specified in ~~paragraph (d)~~ subdivision 3b.

**Subd. 3b. Provider peer grouping; appeals process.** ~~(d)~~ The commissioner shall establish ~~an appeals a~~ process to resolve disputes from providers regarding the accuracy of the data used to develop analyses or reports ~~or errors in the application of standards or methodology established by the commissioner in consultation with the advisory committee.~~ When a provider ~~appeals the accuracy of the data used to calculate the peer grouping system results~~ submits an appeal, the provider shall:

(1) clearly indicate the reason ~~they believe the data used to calculate the peer group system results are not accurate~~ or reasons for the appeal;

(2) provide any evidence and, calculations, or documentation to support the reason ~~that data was not accurate~~ for the appeal; and

(3) cooperate with the commissioner, including allowing the commissioner access to data necessary and relevant to resolving the dispute.

The commissioner shall cooperate with the provider during the data review period specified in subdivisions 3a and 3c by giving the provider information necessary for the preparation of an appeal.

If a provider does not meet the requirements of this ~~paragraph subdivision~~, a provider's appeal shall be considered withdrawn. The commissioner shall not publish peer grouping results for a specific provider under paragraph (e) or (f) while that provider has an unresolved appeal until the appeal has been resolved.

**Subd. 3c. Provider peer grouping; publication of information for the public.** ~~(e)~~ Beginning January 1, 2011, the commissioner shall, no less than annually, publish information on providers' total cost, total resource use, total quality, and the results of the total care portion of the peer grouping process. The results that are published must be on a risk-adjusted basis. (a) The commissioner may publicly release summary data related to the peer grouping system as long as the data do not contain information or descriptions from which the identity of individual hospitals, clinics, or other providers may be discerned.

~~(f)~~ Beginning March 30, 2011, the commissioner shall no less than annually publish information on providers' condition specific cost, condition specific resource use, and condition specific quality, and the results of the condition specific portion of the peer grouping process. The results that are published must be on a risk-adjusted basis. (b) The commissioner may publicly release analyses or results related to the peer grouping system that identify hospitals, clinics, or other providers only if the following criteria are met:

(1) the results, data, and summaries, including any graphical depictions of provider performance, have been distributed to providers at least 120 days prior to publication;

(2) the commissioner has provided an opportunity for providers to verify and review data for which the provider is the subject consistent with the findings specified in subdivision 3c, paragraph (d);

(3) the results meet thresholds of validity, reliability, statistical significance, representativeness, and other standards that reflect the recommendations of the advisory committee, established under subdivision 3; and

(4) any public report or other usage of the analyses, report, or data used by the state clearly notifies consumers about how to use and interpret the results, including any limitations of the data and analysis.

~~(g)~~ (c) After publishing the first public report, the commissioner shall, no less frequently than annually, publish information on providers' total cost, total resource use, total quality, and the results of the total care portion of the peer grouping process, as well as information on providers' condition-specific cost, condition-specific resource use, and condition-specific quality, and the results of the condition-specific portion of the peer grouping process. The results that are published must be on a risk-adjusted basis, including case mix adjustments.

(d) The commissioner shall convene a work group comprised of representatives of physician clinics, hospitals, their respective statewide associations, and other relevant stakeholder organizations to make recommendations on data to be made available to hospitals and physician clinics to allow for verification of the accuracy and representativeness of the provider peer grouping results.

**Subd. 3d. Provider peer grouping; standards for dissemination and publication.** (a) Prior to disseminating data to providers under ~~paragraph (b) or (e) subdivision 3a~~ or publishing information under ~~paragraph (e) or (f) subdivision 3c~~, the commissioner, in consultation with the advisory committee, shall ensure the scientific and statistical validity and reliability of the results according to the standards described in paragraph ~~(h) (b)~~. If additional time is needed to establish the scientific validity, statistical significance, and reliability of the results, the commissioner may delay the dissemination of data to providers under ~~paragraph (b) or (e) subdivision 3a~~, or the publication of information under ~~paragraph (e) or (f) subdivision 3c~~. If the delay is more than 60 days, the commissioner shall report in writing to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance the following information:

~~(1) the reason for the delay;~~

~~(2) the actions being taken to resolve the delay and establish the scientific validity and reliability of the results;~~  
and

~~(3) the new dates by which the results shall be disseminated.~~

~~If there is a delay under this paragraph,~~ The commissioner must disseminate the information to providers under ~~paragraph (b) or (e) subdivision 3a~~ at least ~~90~~ 120 days before publishing results under ~~paragraph (e) or (f) subdivision 3c~~.

~~(h) (b)~~ (b) The commissioner's assurance of valid, timely, and reliable clinic and hospital peer grouping performance results shall include, at a minimum, the following:

(1) use of the best available evidence, research, and methodologies; and

(2) establishment of ~~an~~ explicit minimum reliability ~~threshold~~ thresholds for both quality and costs developed in collaboration with the subjects of the data and the users of the data, at a level not below nationally accepted standards where such standards exist.

In achieving these thresholds, the commissioner shall not aggregate clinics that are not part of the same system or practice group. The commissioner shall consult with and solicit feedback from the advisory committee and representatives of physician clinics and hospitals during the peer grouping data analysis process to obtain input on the methodological options prior to final analysis and on the design, development, and testing of provider reports.

**EFFECTIVE DATE.** This section is effective July 1, 2012, shall be implemented within available resources, and applies to all information provided or released to the public or to health care providers, pursuant to Minnesota Statutes, section 64U.04, on or after that date.

Sec. 8. Minnesota Statutes 2010, section 62U.04, subdivision 4, is amended to read:

Subd. 4. **Encounter data.** (a) Beginning July 1, 2009, and every six months thereafter, all health plan companies and third-party administrators shall submit encounter data to a private entity designated by the commissioner of health. The data shall be submitted in a form and manner specified by the commissioner subject to the following requirements:

(1) the data must be de-identified data as described under the Code of Federal Regulations, title 45, section 164.514;

(2) the data for each encounter must include an identifier for the patient's health care home if the patient has selected a health care home; and

(3) except for the identifier described in clause (2), the data must not include information that is not included in a health care claim or equivalent encounter information transaction that is required under section 62J.536.

(b) The commissioner or the commissioner's designee shall only use the data submitted under paragraph (a) ~~for the purpose of carrying out its responsibilities in this section, and must maintain the data that it receives according to the provisions of this section~~ to carry out its responsibilities in this section, including supplying the data to providers so they can verify their results of the peer grouping process consistent with the findings specified under subdivision 3c, paragraph (d), and, if necessary, submit comments to the commissioner or initiate an appeal.

(c) Data on providers collected under this subdivision are private data on individuals or nonpublic data, as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this subdivision may be derived from nonpublic data. The commissioner or the commissioner's designee shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

(d) The commissioner or the commissioner's designee shall not publish analyses or reports that identify, or could potentially identify, individual patients.

**EFFECTIVE DATE.** This section is effective July 1, 2012, and applies to all information provided or released to the public or to health care providers pursuant to Minnesota Statutes, section 62U.04, on or after that date.

Sec. 9. Minnesota Statutes 2010, section 62U.04, subdivision 5, is amended to read:

Subd. 5. **Pricing data.** (a) Beginning July 1, 2009, and annually on January 1 thereafter, all health plan companies and third-party administrators shall submit data on their contracted prices with health care providers to a private entity designated by the commissioner of health for the purposes of performing the analyses required under this subdivision. The data shall be submitted in the form and manner specified by the commissioner of health.

(b) The commissioner or the commissioner's designee shall only use the data submitted under this subdivision ~~for the purpose of carrying out its responsibilities under this section~~ to carry out its responsibilities under this section, including supplying the data to providers so they can verify their results of the peer grouping process consistent with the findings specified under subdivision 3c, paragraph (d), and, if necessary, submit comments to the commissioner or initiate an appeal.

(c) Data collected under this subdivision are nonpublic data as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this section may be derived from nonpublic data. The commissioner shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

**EFFECTIVE DATE.** This section is effective July 1, 2012, and applies to all information provided or released to the public or to health care providers pursuant to Minnesota Statutes, section 62U.04, on or after that date.

Sec. 10. Minnesota Statutes 2011 Supplement, section 62U.04, subdivision 9, is amended to read:

Subd. 9. **Uses of information.** ~~(a) For product renewals or for new products that are offered, after 12 months have elapsed from publication by the commissioner of the information in subdivision 3, paragraph (e):~~

(1) the commissioner of management and budget ~~shall~~ may use the information and methods developed under ~~subdivision 3 subdivisions 3 to 3d~~ to strengthen incentives for members of the state employee group insurance program to use high-quality, low-cost providers;

(2) ~~all~~ political subdivisions, as defined in section 13.02, subdivision 11, that offer health benefits to their employees ~~must~~ may offer plans that differentiate providers on their cost and quality performance and create incentives for members to use better-performing providers;

(3) ~~all~~ health plan companies ~~shall~~ may use the information and methods developed under ~~subdivision 3 subdivisions 3 to 3d~~ to develop products that encourage consumers to use high-quality, low-cost providers; and

(4) health plan companies that issue health plans in the individual market or the small employer market ~~must~~ may offer at least one health plan that uses the information developed under ~~subdivision 3 subdivisions 3 to 3d~~ to establish financial incentives for consumers to choose higher-quality, lower-cost providers through enrollee cost-sharing or selective provider networks.

~~(b) By January 1, 2011, the commissioner of health shall report to the governor and the legislature on recommendations to encourage health plan companies to promote widespread adoption of products that encourage the use of high quality, low cost providers. The commissioner's recommendations may include tax incentives, public reporting of health plan performance, regulatory incentives or changes, and other strategies.~~

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 11. Minnesota Statutes 2010, section 144.1222, is amended by adding a subdivision to read:

Subd. 6. **Exemption.** The natural swimming pond project known as Webber Lake in the city of Minneapolis is exempt from this chapter and Minnesota Rules, chapter 4717, for the purpose of allowing a swimming pool that uses an alternative, nonchemical filtration system to eliminate pathogens through natural processes. If the commissioner determines that this project is unable to provide a safe swimming environment, the commissioner shall rescind this exemption.

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

Sec. 12. **[144.1225] ADVANCED DIAGNOSTIC IMAGING SERVICES.**

Subdivision 1. **Definition.** For purposes of this section, "advanced diagnostic imaging services" means services entailing the use of diagnostic magnetic resonance imaging (MRI) equipment, except that it does not include MRI equipment owned or operated by a hospital licensed under sections 144.50 to 144.56 or any facility affiliated with or owned by such hospital.

Subd. 2. **Accreditation required.** (a) Except as otherwise provided in paragraph (b), advanced diagnostic imaging services eligible for reimbursement from any source including, but not limited to, the individual receiving such services and any individual or group insurance contract, plan, or policy delivered in this state including, but not limited to, private health insurance plans, workers' compensation insurance, motor vehicle insurance, the State Employee Group Insurance Program (SEGIP), and other state health care programs shall be reimbursed only if the facility at which the service has been conducted and processed is accredited by one of the following entities:

(1) American College of Radiology (ACR);

(2) Intersocietal Accreditation Commission (IAC); or

(3) the joint commission.

(b) Any facility that performs advanced diagnostic imaging services and is eligible to receive reimbursement for such services from any source in paragraph (a) must obtain accreditation by August 1, 2013. Thereafter, all facilities that provide advanced diagnostic imaging services in the state must obtain accreditation prior to commencing operations and must, at all times, maintain accreditation with an accrediting organization as provided in paragraph (a).

Subd. 3. **Reporting.** (a) Advanced diagnostic imaging facilities and providers of advanced diagnostic imaging services must annually report to the commissioner demonstration of accreditation as required under this section.

(b) The commissioner may promulgate any rules necessary to administer the reporting required under paragraph (a).

Sec. 13. Minnesota Statutes 2010, section 144.292, subdivision 6, is amended to read:

Subd. 6. **Cost.** (a) When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee.

(b) When a provider or its representative makes copies of patient records upon a patient's request under this section, the provider or its representative may charge the patient or the patient's representative no more than 75 cents per page, plus \$10 for time spent retrieving and copying the records, unless other law or a rule or contract provide for a lower maximum charge. This limitation does not apply to x-rays. The provider may charge a patient no more than the actual cost of reproducing x-rays, plus no more than \$10 for the time spent retrieving and copying the x-rays.

(c) The respective maximum charges of 75 cents per page and \$10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the Consumer Price Index for all Urban Consumers, Minneapolis-St. Paul (CPI-U), published by the Department of Labor.

(d) A provider or its representative may charge the \$10 retrieval fee, but must not charge a per page fee to provide copies of records requested by a patient or the patient's authorized representative if the request for copies of records is for purposes of appealing a denial of Social Security disability income or Social Security disability benefits under title II or title XVI of the Social Security Act; except that no fee shall be charged to a person who is receiving public assistance, who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency. For the purpose of further appeals, a patient may receive no more than two medical record updates without charge, but only for medical record information previously not provided. For purposes of this paragraph, a patient's authorized representative does not include units of state government engaged in the adjudication of Social Security disability claims.

Sec. 14. Minnesota Statutes 2010, section 144.293, subdivision 2, is amended to read:

Subd. 2. **Patient consent to release of records.** A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without:

(1) a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release;

(2) specific authorization in law; or

(3) in the case of a medical emergency, a representation from a provider that holds a signed and dated consent from the patient authorizing the release.



Sec. 15. Minnesota Statutes 2010, section 145.906, is amended to read:

**145.906 POSTPARTUM DEPRESSION EDUCATION AND INFORMATION.**

(a) The commissioner of health shall work with health care facilities, licensed health and mental health care professionals, the women, infants, and children (WIC) program, mental health advocates, consumers, and families in the state to develop materials and information about postpartum depression, including treatment resources, and develop policies and procedures to comply with this section.

(b) Physicians, traditional midwives, and other licensed health care professionals providing prenatal care to women must have available to women and their families information about postpartum depression.

(c) Hospitals and other health care facilities in the state must provide departing new mothers and fathers and other family members, as appropriate, with written information about postpartum depression, including its symptoms, methods of coping with the illness, and treatment resources.

(d) Information about postpartum depression, including its symptoms, potential impact on families, and treatment resources, must be available at WIC sites.

Sec. 16. Minnesota Statutes 2010, section 256B.0754, subdivision 2, is amended to read:

Subd. 2. **Payment reform.** By no later than 12 months after the commissioner of health publishes the information in section ~~62U.04, subdivision 3, paragraph (e)~~ 62U.04, subdivision 3c, paragraph (b), the commissioner of human services ~~shall~~ may use the information and methods developed under section 62U.04 to establish a payment system that:

- (1) rewards high-quality, low-cost providers;
- (2) creates enrollee incentives to receive care from high-quality, low-cost providers; and
- (3) fosters collaboration among providers to reduce cost shifting from one part of the health continuum to another.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 17. **EVALUATION OF HEALTH AND HUMAN SERVICES REGULATORY RESPONSIBILITIES.**

Relating to the evaluations and legislative report completed pursuant to Laws 2011, First Special Session chapter 9, article 2, section 26, the following activities must be completed:

(1) the commissioners of health and human services must update, revise, and link the contents of their Web sites related to supervised living facilities, intermediate care facilities for the developmentally disabled, nursing facilities, board and lodging establishments, and human services licensed programs so that consumers and providers can access consistent clear information about the regulations affecting these facilities; and

(2) the commissioner of management and budget, in consultation with the commissioners of health and human services, must evaluate and recommend options for administering health and human services regulations. The evaluation and recommendations must be submitted in a report to the legislative committees with jurisdiction over health and human services no later than August 1, 2013, and shall at a minimum: (i) identify and evaluate the regulatory responsibilities of the Departments of Health and Human Services to determine whether to organize these regulatory responsibilities to improve how the state administers health and human services regulatory functions, or

whether there are ways to improve these regulatory activities without reorganizing; and (ii) describe and evaluate the multiple roles of the Department of Human Services as a direct provider of care services, a regulator, and a payor for state program services.

Sec. 18. **STUDY OF FOR-PROFIT HEALTH MAINTENANCE ORGANIZATIONS.**

The commissioner of health shall contract with an entity with expertise in health economics and health care delivery and quality to study the efficiency, costs, service quality, and enrollee satisfaction of for-profit health maintenance organizations, relative to not-for-profit health maintenance organizations operating in Minnesota and other states. The study findings must address whether the state could: (1) reduce medical assistance and MinnesotaCare costs and costs of providing coverage to state employees; and (2) maintain or improve the quality of care provided to state health care program enrollees and state employees if for-profit health maintenance organizations were allowed to operate in the state. The commissioner shall require the entity under contract to report study findings to the commissioner and the legislature by January 15, 2013.

Sec. 19. **REPORTING PREVALENCE OF SEXUAL VIOLENCE.**

The commissioner of health must routinely report to the public and to the legislature data on the prevalence and incidence of sexual violence in Minnesota. The commissioner must use existing data provided by the Centers for Disease Control and Prevention, or other source as identified by commissioner.

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

ARTICLE 3  
CHILDREN AND FAMILY SERVICES

Section 1. Minnesota Statutes 2010, section 119B.13, subdivision 3a, is amended to read:

Subd. 3a. **Provider rate differential for accreditation.** A family child care provider or child care center shall be paid a ~~45~~ 16 percent differential above the maximum rate established in subdivision 1, up to the actual provider rate, if the provider or center holds a current early childhood development credential or is accredited. For a family child care provider, early childhood development credential and accreditation includes an individual who has earned a child development associate degree, a child development associate credential, a diploma in child development from a Minnesota state technical college, or a bachelor's or post baccalaureate degree in early childhood education from an accredited college or university, or who is accredited by the National Association for Family Child Care or the Competency Based Training and Assessment Program. For a child care center, accreditation includes accreditation ~~by~~ that meets the following criteria: the accrediting organization must demonstrate the use of standards that promote the physical, social, emotional, and cognitive development of children. The accreditation standards shall include, but are not limited to, positive interactions between adults and children, age-appropriate learning activities, a system of tracking children's learning, use of assessment to meet children's needs, specific qualifications for staff, a learning environment that supports developmentally appropriate experiences for children, health and safety requirements, and family engagement strategies. The commissioner of human services, in conjunction with the commissioners of education and health, will develop an application and approval process based on the criteria in this section and any additional criteria. The process developed by the commissioner of human services must address periodic reassessment of approved accreditations. The commissioner of human services must report the criteria developed, the application, approval, and reassessment processes, and any additional recommendations by February 15, 2013, to the chairs and ranking minority members of the legislative committees having jurisdiction over early childhood issues. The following accreditations shall be recognized for the provider rate differential until an approval process is implemented: the National Association for the Education of Young Children, the Council on Accreditation, the National Early Childhood Program Accreditation, the National School-Age Care Association, or the National Head Start Association Program of Excellence. For Montessori programs, accreditation includes the American Montessori Society, Association of Montessori International-USA, or the National Center for Montessori Education.

Sec. 2. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 7, is amended to read:

Subd. 7. **Absent days.** (a) ~~Licensed~~ Child care providers ~~and license exempt centers must~~ may not be reimbursed for more than ~~ten~~ 25 full-day absent days per child, excluding holidays, in a fiscal year, or for more than ten consecutive full day absent days, unless the child has a documented medical condition that causes more frequent absences. Absences due to a documented medical condition of a parent or sibling who lives in the same residence as the child receiving child care assistance do not count against the 25 day absent day limit in a fiscal year. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner. A public health nurse or school nurse may verify the illness in lieu of a medical practitioner. If a provider sends a child home early due to a medical reason, including, but not limited to, fever or contagious illness, the child care center director or lead teacher may verify the illness in lieu of a medical practitioner. Legal nonlicensed family child care providers must not be reimbursed for absent days. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time must be reimbursed but the time must not count toward the ten consecutive or 25 cumulative absent day limit limits. Children in families where at least one parent is under the age of 21, does not have a high school or general equivalency diploma, and is a student in a school district or another similar program that provides or arranges for child care, as well as parenting, social services, career and employment supports, and academic support to achieve high school graduation, may be exempt from the absent day limits upon request of the program and approval by the county. If a child attends part of an authorized day, payment to the provider must be for the full amount of care authorized for that day. Child care providers must only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

(b) Child care providers must be reimbursed for up to ten federal or state holidays or designated holidays per year when the provider charges all families for these days and the holiday or designated holiday falls on a day when the child is authorized to be in attendance. Parents may substitute other cultural or religious holidays for the ten recognized state and federal holidays. Holidays do not count toward the ten consecutive or 25 cumulative absent day limit limits.

(c) A family or child care provider must not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, (2) all of the allowed full-day absent payments for the child have been paid, or (3) the family or provider did not timely report a change as required under law.

(d) The provider and family shall receive notification of the number of absent days used upon initial provider authorization for a family and ongoing notification of the number of absent days used as of the date of the notification.

(e) A county may pay for more absent days than the statewide absent day policy established under this subdivision if current market practice in the county justifies payment for those additional days. County policies for payment of absent days in excess of the statewide absent day policy and justification for these county policies must be included in the county's child care fund plan under section 119B.08, subdivision 3.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 3. Minnesota Statutes 2010, section 256.01, is amended by adding a subdivision to read:

Subd. 18c. **Drug convictions.** (a) The state court administrator shall report every six months by electronic means to the commissioner of human services the name, address, date of birth, and, if available, driver's license or state identification card number, date of sentence, effective date of the sentence, and county in which the conviction occurred of each individual who has been convicted of a felony under chapter 152 during the previous six months.

(b) The commissioner shall determine whether the individuals who are the subject of the data reported under paragraph (a) are receiving public assistance under chapter 256D or 256J, and if any individual is receiving assistance under chapter 256D or 256J, the commissioner shall instruct the county to proceed under section 256D.024 or 256J.26, whichever is applicable, for this individual.

(c) The commissioner shall not retain any data received under paragraph (a) that does not relate to an individual receiving publicly funded assistance under chapter 256D or 256J.

(d) In addition to the routine data transfer under paragraph (a), the state court administrator shall provide a onetime report of the data fields under paragraph (a) for individuals with a felony drug conviction under chapter 152 dated from July 1, 1997, until the date of the data transfer. The commissioner shall perform the tasks identified under paragraph (b) related to this data and shall retain the data according to paragraph (c).

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 4. Minnesota Statutes 2010, section 256.01, is amended by adding a subdivision to read:

**Subd. 18d. Data sharing with Department of Human Services; multiple identification cards.** (a) The commissioner of public safety shall, on a monthly basis, provide the commissioner of human services with the first, middle, and last name, the address, date of birth, and driver's license or state identification card number of all applicants and holders whose drivers' licenses and state identification cards have been canceled under section 171.14, paragraph (a), clause (2) or (3), by the commissioner of public safety. After the initial data report has been provided by the commissioner of public safety to the commissioner of human services under this paragraph, subsequent reports shall only include cancellations that occurred after the end date of the cancellations represented in the previous data report.

(b) The commissioner of human services shall compare the information provided under paragraph (a) with the commissioner's data regarding recipients of all public assistance programs managed by the Department of Human Services to determine whether any individual with multiple identification cards issued by the Department of Public Safety has illegally or improperly enrolled in any public assistance program managed by the Department of Human Services.

(c) If the commissioner of human services determines that an applicant or recipient has illegally or improperly enrolled in any public assistance program, the commissioner shall provide all due process protections to the individual before terminating the individual from the program according to applicable statute and notifying the county attorney.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 5. Minnesota Statutes 2010, section 256.01, is amended by adding a subdivision to read:

**Subd. 18e. Data sharing with Department of Human Services; legal presence status.** (a) The commissioner of public safety shall, on a monthly basis, provide the commissioner of human services with the first, middle, and last name, address, date of birth, and driver's license or state identification number of all applicants and holders of drivers' licenses and state identification cards whose temporary legal presence status has expired and whose driver's license or identification card has been canceled under section 171.14 by the commissioner of public safety.

(b) The commissioner of human services shall use the information provided under paragraph (a) to determine whether the eligibility of any recipients of public assistance programs managed by the Department of Human Services has changed as a result of the status change in the Department of Public Safety data.

(c) If the commissioner of human services determines that a recipient has illegally or improperly received benefits from any public assistance program, the commissioner shall provide all due process protections to the individual before terminating the individual from the program according to applicable statute and notifying the county attorney.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 6. Minnesota Statutes 2011 Supplement, section 256.987, subdivision 1, is amended to read:

Subdivision 1. **Electronic benefit transfer (EBT) card.** Cash benefits for the general assistance and Minnesota supplemental aid programs under chapter 256D and programs under chapter 256J must be issued on a ~~separate~~ an EBT card with the name of the head of household printed on the card. The card must include the following statement: "It is unlawful to use this card to purchase tobacco products or alcoholic beverages." This card must be issued within 30 calendar days of an eligibility determination. During the initial 30 calendar days of eligibility, a recipient may have cash benefits issued on an EBT card without a name printed on the card. This card may be the same card on which food support benefits are issued and does not need to meet the requirements of this section.

Sec. 7. Minnesota Statutes 2011 Supplement, section 256.987, subdivision 2, is amended to read:

Subd. 2. **Prohibited purchases.** An individual with an EBT debit cardholders in card issued for one of the programs listed under subdivision 1 ~~are~~ is prohibited from using the EBT debit card to purchase tobacco products and alcoholic beverages, as defined in section 340A.101, subdivision 2. ~~It is unlawful for an EBT cardholder to purchase or attempt to purchase tobacco products or alcoholic beverages with the cardholder's EBT card.~~ Any ~~unlawful use~~ prohibited purchases made under this subdivision shall constitute ~~fraud~~ unlawful use and result in disqualification of the cardholder from the program ~~under section 256.98, subdivision 8~~ as provided in subdivision 4.

Sec. 8. Minnesota Statutes 2011 Supplement, section 256.987, is amended by adding a subdivision to read:

Subd. 3. **EBT use restricted to certain states.** EBT debit cardholders in programs listed under subdivision 1 are prohibited from using the cash portion of the EBT card at vendors and automatic teller machines located outside of Minnesota, Iowa, North Dakota, South Dakota, or Wisconsin. This subdivision does not apply to the food portion.

Sec. 9. Minnesota Statutes 2011 Supplement, section 256.987, is amended by adding a subdivision to read:

Subd. 4. **Disqualification.** (a) Any person found to be guilty of purchasing tobacco products or alcoholic beverages with their EBT debit card by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the: (1) Minnesota family investment program and any affiliated program to include the diversionary work program and the work participation cash benefit program under chapter 256J; (2) general assistance program under chapter 256D; or (3) Minnesota supplemental aid program under chapter 256D, shall be disqualified from all of the listed programs.

(b) The needs of the disqualified individual shall not be taken into consideration in determining the grant level for that assistance unit: (1) for one year after the first offense; (2) for two years after the second offense; and (3) permanently after the third or subsequent offense.

(c) The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility for postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review.

**EFFECTIVE DATE.** This section is effective June 1, 2012.

Sec. 10. Minnesota Statutes 2010, section 256D.06, subdivision 1b, is amended to read:

Subd. 1b. **Earned income savings account.** In addition to the \$50 disregard required under subdivision 1, the county agency shall disregard an additional earned income up to a maximum of ~~\$150~~ \$500 per month for: (1) persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan; (2) persons living in supervised apartments with services funded under Minnesota Rules, parts 9535.0100 to 9535.1600, and for whom discharge and work are part of a treatment plan; and (3) persons residing in group residential housing, as that term is defined in section 256I.03, subdivision 3, for whom the county agency has approved a discharge plan which includes work. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. For individuals residing in a chemical dependency program licensed under Minnesota Rules, part 9530.4100, subpart 22, item D, withdrawals from the savings account require the signature of the individual and for those individuals with an authorized representative payee, the signature of the payee. A maximum of ~~\$1,000~~ \$2,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of ~~\$1,000~~ \$2,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the individual in the month of receipt and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the ~~\$1,000~~ \$2,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Sec. 11. Minnesota Statutes 2011 Supplement, section 256E.35, subdivision 5, is amended to read:

Subd. 5. **Household eligibility; participation.** (a) To be eligible for state or TANF matching funds in the family assets for independence initiative, a household must meet the eligibility requirements of the federal Assets for Independence Act, Public Law 105-285, in Title IV, section 408 of that act.

(b) Each participating household must sign a family asset agreement that includes the amount of scheduled deposits into its savings account, the proposed use, and the proposed savings goal. A participating household must agree to complete an economic literacy training program.

Participating households may only deposit money that is derived from household earned income or from state and federal income tax credits.

Sec. 12. Minnesota Statutes 2011 Supplement, section 256E.35, subdivision 6, is amended to read:

Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a participating household must transfer funds withdrawn from a family asset account to its matching fund custodial account held by the fiscal agent, according to the family asset agreement. The fiscal agent must determine if the match request is for a permissible use consistent with the household's family asset agreement.

The fiscal agent must ensure the household's custodial account contains the applicable matching funds to match the balance in the household's account, including interest, on at least a quarterly basis and at the time of an approved withdrawal. Matches must be provided as follows:

(1) from state grant and TANF funds, a matching contribution of \$1.50 for every \$1 of funds withdrawn from the family asset account equal to the lesser of \$720 per year or a \$3,000 lifetime limit; and

(2) from nonstate funds, a matching contribution of no less than \$1.50 for every \$1 of funds withdrawn from the family asset account equal to the lesser of \$720 per year or a \$3,000 lifetime limit.

(b) Upon receipt of transferred custodial account funds, the fiscal agent must make a direct payment to the vendor of the goods or services for the permissible use.

Sec. 13. Minnesota Statutes 2010, section 256E.37, subdivision 1, is amended to read:

Subdivision 1. **Grant authority.** The commissioner may make grants to state agencies and political subdivisions to construct or rehabilitate facilities for early childhood programs, crisis nurseries, or parenting time centers. The following requirements apply:

(1) The facilities must be owned by the state or a political subdivision, but may be leased under section 16A.695 to organizations that operate the programs. The commissioner must prescribe the terms and conditions of the leases.

(2) A grant for an individual facility must not exceed \$500,000 for each program that is housed in the facility, up to a maximum of \$2,000,000 for a facility that houses three programs or more. Programs include Head Start, School Readiness, Early Childhood Family Education, licensed child care, and other early childhood intervention programs.

(3) State appropriations must be matched on a 50 percent basis with nonstate funds. The matching requirement must apply program wide and not to individual grants.

(4) At least 80 percent of grant funds must be distributed to facilities located in counties not included in the definition under section 473.121, subdivision 4.

Sec. 14. Minnesota Statutes 2011 Supplement, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the Department of Health, or licensed by the Department of Human Services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0659, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

(d) Counties must not negotiate supplementary service rates with providers of group residential housing that are licensed as board and lodging with special services and that do not encourage a policy of sobriety on their premises and make referrals to available community services for volunteer and employment opportunities for residents.

Sec. 15. Minnesota Statutes 2010, section 256I.05, subdivision 1e, is amended to read:

Subd. 1e. **Supplementary rate for certain facilities.** (a) Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2005, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

- (1) is located in Hennepin County and has had a group residential housing contract with the county since June 1996;
- (2) operates in three separate locations a 75-bed facility, a 50-bed facility, and a 26-bed facility; and
- (3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

(b) Notwithstanding subdivisions 1a and 1c, beginning July 1, 2013, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for the group residential provider described under paragraph (a), not to exceed an additional 175 beds.

**EFFECTIVE DATE.** This section is effective July 1, 2013.

Sec. 16. Minnesota Statutes 2010, section 256J.26, subdivision 1, is amended to read:

Subdivision 1. **Person convicted of drug offenses.** (a) ~~Applicants or participants~~ An individual who have has been convicted of a felony level drug offense committed ~~after July 1, 1997, may, if otherwise eligible, receive MFIP benefits subject to the following conditions: during the previous ten years from the date of application or recertification is subject to the following:~~

(1) Benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit.

(2) The convicted applicant or participant shall be subject to random drug testing as a condition of continued eligibility and following any positive test for an illegal controlled substance is subject to the following sanctions:

(i) for failing a drug test the first time, the residual amount of the participant's grant after making vendor payments for shelter and utility costs, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size. When a sanction under this subdivision is in effect, the job



counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, the job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; or

(ii) for failing a drug test two times, the participant is permanently disqualified from receiving MFIP assistance, both the cash and food portions. The assistance unit's MFIP grant must be reduced by the amount which would have otherwise been made available to the disqualified participant. Disqualification under this item does not make a participant ineligible for food stamps or food support. Before a disqualification under this provision is imposed, the job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.

(3) A participant who fails a drug test the first time and is under a sanction due to other MFIP program requirements is considered to have more than one occurrence of noncompliance and is subject to the applicable level of sanction as specified under section 256J.46, subdivision 1, paragraph (d).

(b) Applicants requesting only food stamps or food support or participants receiving only food stamps or food support, who have been convicted of a drug offense that occurred after July 1, 1997, may, if otherwise eligible, receive food stamps or food support if the convicted applicant or participant is subject to random drug testing as a condition of continued eligibility. Following a positive test for an illegal controlled substance, the applicant is subject to the following sanctions:

(1) for failing a drug test the first time, food stamps or food support shall be reduced by an amount equal to 30 percent of the applicable food stamp or food support allotment. When a sanction under this clause is in effect, a job counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, a job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; and

(2) for failing a drug test two times, the participant is permanently disqualified from receiving food stamps or food support. Before a disqualification under this provision is imposed, a job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.

(e) (b) For the purposes of this subdivision, "drug offense" means an offense that occurred ~~after July 1, 1997, during the previous ten years from the date of application or recertification~~ of sections 152.021 to 152.025, 152.0261, 152.0262, ~~or 152.096, or 152.137~~. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred ~~after July 1, 1997, during the previous ten years from the date of application or recertification~~ and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

**EFFECTIVE DATE.** This section is effective July 1, 2012, for all new MFIP applicants who apply on or after that date and for all recertifications occurring on or after that date.

Sec. 17. Minnesota Statutes 2010, section 256J.26, is amended by adding a subdivision to read:

Subd. 5. **Vendor payment; uninhabitable units.** Upon discovery by the county that a unit has been deemed uninhabitable under section 504B.131, the county shall immediately notify the landlord to return the vendor paid rent under this section for the month in which the discovery occurred. The county shall cease future rent payments for the uninhabitable housing units until the landlord demonstrates the premises are fit for the intended use. A landlord who is required to return vendor paid rent or is prohibited from receiving future rent under this subdivision may not take an eviction action against anyone in the assistance unit.

Sec. 18. Laws 2010, chapter 374, section 1, is amended to read:

Section 1. ~~LADDER OUT OF POVERTY~~ ASSET DEVELOPMENT AND FINANCIAL LITERACY TASK FORCE.

Subdivision 1. **Creation.** (a) The task force consists of the following members:

(1) four senators, including two members of the majority party and two members of the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate;

(2) four members of the house of representatives, including two members of the majority party, appointed by the speaker of the house, and two members of the minority party, appointed by the minority leader; and

(3) the commissioner of the Minnesota Department of Commerce or the commissioner's designee; ~~and~~

~~(4) the attorney general or the attorney general's designee.~~

(b) The task force shall ensure that representatives of the following have the opportunity to meet with and present views to the task force: the attorney general; credit unions; independent community banks; state and federal financial institutions; community action agencies; faith-based financial counseling agencies; faith-based social justice organizations; legal services organizations representing low-income persons; nonprofit organizations providing free tax preparation services as part of the volunteer income tax assistance program; relevant state and local agencies; University of Minnesota faculty involved in personal and family financial education; philanthropic organizations that have as one of their missions combating predatory lending; organizations representing older Minnesotans; and organizations representing the interests of women, Latinos and Latinas, African-Americans, Asian-Americans, American Indians, and immigrants.

Subd. 2. **Duties.** (a) At a minimum, the task force must identify specific policies, strategies, and actions to: reduce asset poverty and increase household financial security by improving opportunities for households to earn, learn, save, invest, and protect assets through expansion of such asset building opportunities as the Family Assets for Independence in Minnesota (FAIM) program and Earned Income Tax Credit (EITC) program.

~~(1) increase opportunities for poor and near poor families and individuals to acquire assets and create and build wealth;~~

~~(2) expand the utilization of Family Assets for Independence in Minnesota (FAIM) or other culturally specific individual development account programs;~~

~~(3) reduce or eliminate predatory financial practices in Minnesota through regulatory actions, legislative enactments, and the development and deployment of alternative, nonpredatory financial products;~~

~~(4) provide incentives or assistance to private sector financial institutions to offer additional programs and services that provide alternatives to and education about predatory financial products;~~

~~(5) provide financial literacy information to low income families and individuals at the time the recipient has the ability, opportunity, and motivation to receive, understand, and act on the information provided; and~~

~~(6) identify incentives and mechanisms to increase community engagement in combating poverty and helping poor and near-poor families and individuals to acquire assets and create and build wealth.~~

For purposes of this section, "asset poverty" means an individual's or family's inability to meet fixed financial obligations and other financial requirements of daily living with existing assets for a three-month period in the event of a disruption in income or extraordinary economic emergency.

~~(b) By June 1, 2012 During the 2013 and 2014 legislative sessions, the task force must provide written recommendations and any draft develop legislation necessary to implement the recommendations to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over commerce and consumer protection fulfill the duties enumerated in paragraph (a).~~

Subd. 3. **Administrative provisions.** (a) The director of the Legislative Coordinating Commission, or a designee of the director, must convene the initial meeting of the task force by September 15, 2010. The members of the task force must elect a chair or cochairs from the legislative members at the initial meeting.

(b) Members of the task force serve without compensation or payment of expenses except as provided in this paragraph. To the extent possible, meetings of the task force shall be scheduled on dates when legislative members of the task force are able to attend legislative meetings that would make them eligible to receive legislative per diem payments.

(c) The task force expires June 1, 2012, or upon the submission of the report required under subdivision 3, whichever is earlier 2014.

(d) The task force may accept gifts and grants, which are accepted on behalf of the state and constitute donations to the state. The funds must be deposited in an account in the special revenue fund and are appropriated to the Legislative Coordinating Commission for purposes of the task force.

(e) The Legislative Coordinating Commission shall provide fiscal services to the task force as needed under this subdivision.

Subd. 4. **Deadline for appointments and designations.** The appointments and designations authorized under this section must be completed no later than August 15, ~~2010~~ 2012.

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

Sec. 19. **GRANT PROGRAM TO PROMOTE HEALTHY COMMUNITY INITIATIVES.**

(a) The commissioner of human services must contract with the Search Institute to help local communities develop, expand, and maintain the tools, training, and resources needed to foster positive community development and effectively engage people in their community. The Search Institute must: (1) provide training in community mobilization, youth development, and assets getting to outcomes; (2) provide ongoing technical assistance to communities receiving grants under this section; (3) use best practices to promote community development; (4) share best program practices with other interested communities; (5) create electronic and other opportunities for communities to share experiences in and resources for promoting healthy community development; and (6) provide an annual report of the strong communities project.

(b) Specifically, the Search Institute must use a competitive grant process to select four interested communities throughout Minnesota to undertake strong community mobilization initiatives to support communities wishing to catalyze multiple sectors to create or strengthen a community collaboration to address issues of poverty in their communities. The Search Institute must provide the selected communities with the tools, training, and resources they need for successfully implementing initiatives focused on strengthening the community. The Search Institute also must use a competitive grant process to provide four strong community innovation grants to encourage current community initiatives to bring new innovative approaches to their work to reduce poverty. Finally, the Search Institute must work to strengthen networking and information sharing activities among all healthy community initiatives throughout Minnesota, including sharing best program practices and providing personal and electronic opportunities for peer learning and ongoing program support.

(c) In order to receive a grant under paragraph (b), a community must show involvement of at least three sectors of their community and the active leadership of both youth and adults. Sectors may include, but are not limited to, local government, schools, community action agencies, faith communities, businesses, higher education institutions, and the medical community. In addition, communities must agree to: (1) attend training on community mobilization processes and strength-based approaches; (2) apply the assets getting to outcomes process in their initiative; (3) meet at least two times during the grant period to share successes and challenges with other grantees; (4) participate on an electronic listserv to share information throughout the period on their work; and (5) all communication requirements and reporting processes.

(d) The commissioner of human services must evaluate the effectiveness of this program and must recommend to the committees of the legislature with jurisdiction over health and human services reform and finance by February 15, 2013, whether or not to make the program available statewide. The Search Institute annually must report to the commissioner of human services on the services it provided and the grant money it expended under this section.

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

Sec. 20. **CIRCLES OF SUPPORT GRANTS.**

The commissioner of human services must provide grants to community action agencies to help local communities develop, expand, and maintain the tools, training, and resources needed to foster social assets to assist people out of poverty through circles of support. The circles of support model must provide a framework for a community to build relationships across class and race lines so that people can work together to advocate for change in their communities and move individuals toward self-sufficiency.

Specifically, circles of support initiatives must focus on increasing social capital, income, educational attainment, and individual accountability, while reducing debt, service dependency, and addressing systemic disparities that hold poverty in place. The effort must support the development of local guiding coalitions as the link between the community and circles of support for resource development and funding leverage.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 21. **MINNESOTA VISIBLE CHILD WORK GROUP.**

Subdivision 1. **Purpose.** The Minnesota visible child work group is established to identify and recommend issues that should be addressed in a statewide, comprehensive plan to improve the well-being of children who are homeless or have experienced homelessness.

Subd. 2. **Membership.** The members of the Minnesota visible child work group include: (1) two members of the Minnesota house of representatives appointed by the speaker of the house, one member from the majority party and one member from the minority party; (2) two members of the Minnesota senate appointed by the senate

Subcommittee on Committees of the Committee on Rules and Administration, one member from the majority party and one member from the minority party; (3) three representatives from family shelter, transitional housing, and supportive housing providers appointed by the governor; (4) two individuals appointed by the governor who have experienced homelessness; (5) three housing and child advocates appointed by the governor; (6) three representatives from the business or philanthropic community; and (7) children's cabinet members, or their designees. Work group membership should include people from rural, suburban, and urban areas of the state.

Subd. 3. **Duties.** The work group shall: (1) recommend goals and objectives for a comprehensive, statewide plan to improve the well-being of children who are homeless or who have experienced homelessness; (2) recommend a definition of "child well-being"; (3) identify evidence-based interventions and best practices improving the well-being of young children; (4) plan implementation timelines and ways to measure progress, including measures of child well-being from birth through adolescence; (5) identify ways to address issues of collaboration and coordination across systems, including education, health, human services, and housing; (6) recommend the type of data and information necessary to develop, effectively implement, and monitor a strategic plan; (7) examine and make recommendations regarding funding to implement an effective plan; and (8) provide recommendations for ongoing reports on the well-being of children, monitoring progress in implementing the statewide comprehensive plan, and any other issues determined to be relevant to achieving the goals of this section.

Subd. 4. **Report.** The work group shall make recommendations under subdivision 3 to the legislative committees with jurisdiction over education, housing, health, and human services policy and finance by December 15, 2012. The recommendations must also be submitted to the children's cabinet to provide the foundation for a statewide visible child plan.

Subd. 5. **Expiration.** The Minnesota visible child work group expires on June 30, 2013.

**Sec. 22. UNIFORM ASSET LIMIT REQUIREMENTS.**

The commissioner of human services, in consultation with county human services representatives, shall analyze the differences in asset limit requirements across human services assistance programs, including group residential housing, Minnesota supplemental aid, general assistance, Minnesota family investment program, diversionary work program, the federal Supplemental Nutrition Assistance Program, state food assistance programs, and child care programs. The goal of the analysis is to establish a consistent asset limit across human services programs and minimize the administrative burdens on counties in implementing asset tests. The commissioner shall report its findings and conclusions to the legislative committees with jurisdiction over health and human services policy and finance by January 15, 2013, and include draft legislation establishing a uniform asset limit for human services assistance programs.

**Sec. 23. DIRECTION TO THE COMMISSIONER.**

The commissioner of human services, in consultation with the commissioner of public safety, shall report to the legislative committees with jurisdiction over health and human services policy and finance regarding the implementations of Minnesota Statutes, section 256.01, subdivisions 18c, 18d, and 18e, and the number of persons affected and fiscal impact by program by April 1, 2013.

**Sec. 24. REVISOR INSTRUCTION.**

The revisor of statutes shall change the term "assistance transaction card" or similar terms to "electronic benefit transaction" or similar terms wherever they appear in Minnesota Statutes, chapter 256. The revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

ARTICLE 4  
CONTINUING CARE

Section 1. Minnesota Statutes 2010, section 62J.496, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) "Eligible borrower" means one of the following:

- (1) federally qualified health centers;
- (2) community clinics, as defined under section 145.9268;
- (3) nonprofit or local unit of government hospitals licensed under sections 144.50 to 144.56;
- (4) individual or small group physician practices that are focused primarily on primary care;
- (5) nursing facilities licensed under sections 144A.01 to 144A.27;
- (6) local public health departments as defined in chapter 145A; and

(7) other providers of health or health care services approved by the commissioner for which interoperable electronic health record capability would improve quality of care, patient safety, or community health.

(b) The commissioner shall administer the loan fund to prioritize support and assistance to:

- (1) critical access hospitals;
- (2) federally qualified health centers;
- (3) entities that serve uninsured, underinsured, and medically underserved individuals, regardless of whether such area is urban or rural; ~~and~~
- (4) individual or small group practices that are primarily focused on primary care-;
- (5) nursing facilities certified to participate in the medical assistance program; and
- (6) providers enrolled in the elderly waiver program of customized living or 24-hour customized living of the medical assistance program, if at least half of their annual operating revenue is paid under the medical assistance program.

(c) An eligible applicant must submit a loan application to the commissioner of health on forms prescribed by the commissioner. The application must include, at a minimum:

- (1) the amount of the loan requested and a description of the purpose or project for which the loan proceeds will be used;
- (2) a quote from a vendor;
- (3) a description of the health care entities and other groups participating in the project;
- (4) evidence of financial stability and a demonstrated ability to repay the loan; and

(5) a description of how the system to be financed interoperates or plans in the future to interoperate with other health care entities and provider groups located in the same geographical area;

(6) a plan on how the certified electronic health record technology will be maintained and supported over time; and

(7) any other requirements for applications included or developed pursuant to section 3014 of the HITECH Act.

Sec. 2. Minnesota Statutes 2010, section 144A.351, is amended to read:

**144A.351 BALANCING LONG-TERM CARE SERVICES AND SUPPORTS: REPORT REQUIRED.**

The commissioners of health and human services, in consultation with the cooperation of counties and stakeholders, including persons who need or are using long-term care services and supports, lead agencies, regional entities, senior and disability organization representatives, service providers, community members, including local businesses, and faith-based representatives shall prepare a report to the legislature by August 15, ~~2004~~ 2013, and biennially thereafter, regarding the status of the full range of long-term care services and supports for the elderly and children and adults with disabilities in Minnesota. The report shall address:

(1) demographics and need for long-term care services and supports in Minnesota;

(2) summary of county and regional reports on long-term care gaps, surpluses, imbalances, and corrective action plans;

(3) status of long-term care services by county and region including:

(i) changes in availability of the range of long-term care services and housing options;

(ii) access problems regarding long-term care services; and

(iii) comparative measures of long-term care services availability and ~~progress~~ changes over time; and

(4) recommendations regarding goals for the future of long-term care services and supports, policy and fiscal changes, and resource needs.

Sec. 3. Minnesota Statutes 2010, section 245A.03, is amended by adding a subdivision to read:

Subd. 6a. **Adult foster care homes serving people with mental illness; certification.** (a) The commissioner of human services shall issue a mental health certification for adult foster care homes licensed under this chapter and Minnesota Rules, parts 9555.5105 to 9555.6265, that serve people with mental illness where the home is not the primary residence of the license holder when a provider is determined to have met the requirements under paragraph (b). This certification is voluntary for license holders. The certification shall be printed on the license, and identified on the commissioner's public Web site.

(b) The requirements for certification are:

(1) all staff working in the adult foster care home have received at least seven hours of annual training covering all of the following topics:

(i) mental health diagnoses;

(ii) mental health crisis response and de-escalation techniques;

(iii) recovery from mental illness;

(iv) treatment options including evidence-based practices;

(v) medications and their side effects;

(vi) co-occurring substance abuse and health conditions; and

(vii) community resources; and

(2) a mental health professional, as defined in section 245.462, subdivision 18, or a mental health practitioner as defined in section 245.462, subdivision 17, are available for consultation and assistance;

(3) there is a plan and protocol in place to address a mental health crisis; and

(4) each individual's individual placement agreement identifies who is providing clinical services and their contact information, and includes an individual crisis prevention and management plan developed with the individual.

(c) License holders seeking certification under this subdivision must request this certification on forms provided by the commissioner and must submit the request to the county licensing agency in which the home is located. The county licensing agency must forward the request to the commissioner with a county recommendation regarding whether the commissioner should issue the certification.

(d) Ongoing compliance with the certification requirements under paragraph (b) shall be reviewed by the county licensing agency at each licensing review. When a county licensing agency determines that the requirements of paragraph (b) are not met, the county shall inform the commissioner, and the commissioner will remove the certification.

(e) A denial of the certification or the removal of the certification based on a determination that the requirements under paragraph (b) have not been met by the adult foster care license holder are not subject to appeal. A license holder that has been denied a certification or that has had a certification removed may again request certification when the license holder is in compliance with the requirements of paragraph (b).

Sec. 4. Minnesota Statutes 2011 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. Exceptions to the moratorium include:

(1) foster care settings that are required to be registered under chapter 144D;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, and determined to be needed by the commissioner under paragraph (b);



(3) new foster care licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center, or restructuring of state-operated services that limits the capacity of state-operated facilities;

(4) new foster care licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or

(5) new foster care licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services.

(b) The commissioner shall determine the need for newly licensed foster care homes as defined under this subdivision using the resource need determination process described in paragraph (f). As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, ~~and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address and other data and information, including the report on the status of long-term care services required under section 144A.351.~~

(c) Residential settings that would otherwise be subject to the moratorium established in paragraph (a), that are in the process of receiving an adult or child foster care license as of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult or child foster care license. For this paragraph, all of the following conditions must be met to be considered in the process of receiving an adult or child foster care license:

(1) participants have made decisions to move into the residential setting, including documentation in each participant's care plan;

(2) the provider has purchased housing or has made a financial investment in the property;

(3) the lead agency has approved the plans, including costs for the residential setting for each individual;

(4) the completion of the licensing process, including all necessary inspections, is the only remaining component prior to being able to provide services; and

(5) the needs of the individuals cannot be met within the existing capacity in that county.

To qualify for the process under this paragraph, the lead agency must submit documentation to the commissioner by August 1, 2009, that all of the above criteria are met.

(d) The commissioner shall study the effects of the license moratorium under this subdivision and shall report back to the legislature by January 15, 2011. This study shall include, but is not limited to the following:

(1) the overall capacity and utilization of foster care beds where the physical location is not the primary residence of the license holder prior to and after implementation of the moratorium;

(2) the overall capacity and utilization of foster care beds where the physical location is the primary residence of the license holder prior to and after implementation of the moratorium; and

(3) the number of licensed and occupied ICF/MR beds prior to and after implementation of the moratorium.

(e) When a foster care recipient moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), the county shall immediately inform the Department of Human Services Licensing Division, ~~and~~. The department shall ~~immediately~~ decrease the licensed capacity ~~for the~~

home of foster care settings where the physical location is not the primary residence of the license holder if the voluntary changes described in paragraph (f) are not sufficient to meet the savings required by 2011 reductions in licensed bed capacity and maintain statewide long-term care residential services capacity within budgetary limits. If a licensed adult foster home becomes no longer viable, the lead agency, with the assistance of the department, shall facilitate a consolidation of settings or closure. A decreased licensed capacity according to this paragraph is not subject to appeal under this chapter.

(f) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity required under paragraph (e) will occur. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet long-term care service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, allow for payment to hold a person's bed open from permanent reassignment up to 60 days while the person tries living in a more independent setting, and better meet needs identified by the long-term care services reports and statewide data and information. By February 1 of each year, the commissioner shall provide information and data on the overall capacity of licensed long-term care services, actions taken under this subdivision to manage statewide long-term care services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

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

Sec. 5. Minnesota Statutes 2010, section 245A.11, subdivision 7, is amended to read:

Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a ~~licensing action~~ conditional license issued under section 245A.06 or any other licensing sanction issued under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

Sec. 6. Minnesota Statutes 2010, section 245B.07, subdivision 1, is amended to read:

Subdivision 1. **Consumer data file.** The license holder must maintain the following information for each consumer:

(1) identifying information that includes date of birth, medications, legal representative, history, medical, and other individual-specific information, and names and telephone numbers of contacts;

(2) consumer health information, including individual medication administration and monitoring information;

(3) the consumer's individual service plan. When a consumer's case manager does not provide a current individual service plan, the license holder shall make a written request to the case manager to provide a copy of the individual service plan and inform the consumer or the consumer's legal representative of the right to an individual service plan and the right to appeal under section 256.045. In the event the case manager fails to provide an individual service plan after a written request from the license holder, the license holder shall not be sanctioned or penalized financially for not having a current individual service plan in the consumer's data file;

(4) copies of assessments, analyses, summaries, and recommendations;

(5) progress review reports;

(6) incidents involving the consumer;

(7) reports required under section 245B.05, subdivision 7;

(8) discharge summary, when applicable;

(9) record of other license holders serving the consumer that includes a contact person and telephone numbers, services being provided, services that require coordination between two license holders, and name of staff responsible for coordination;

(10) information about verbal aggression directed at the consumer by another consumer; and

(11) information about self-abuse.

Sec. 7. Minnesota Statutes 2010, section 245C.04, subdivision 6, is amended to read:

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) Providers required to initiate background studies under section 256B.4912 must initiate a study before the individual begins in a position allowing direct contact with persons served by the provider.

(b) ~~The commissioner shall conduct~~ Except as provided in paragraph (c), the providers must initiate a background study annually of an individual required to be studied under section 245C.03, subdivision 6.

(c) After an initial background study under this subdivision is initiated on an individual by a provider of both services licensed by the commissioner and the unlicensed services under this subdivision, a repeat annual background study is not required if:

(1) the provider maintains compliance with the requirements of section 245C.07, paragraph (a), regarding one individual with one address and telephone number as the person to receive sensitive background study information for the multiple programs that depend on the same background study, and that the individual who is designated to

receive the sensitive background information is capable of determining, upon the request of the commissioner, whether a background study subject is providing direct contact services in one or more of the provider's programs or services and, if so, at which location or locations; and

(2) the individual who is the subject of the background study provides direct contact services under the provider's licensed program for at least 40 hours per year so the individual will be recognized by a probation officer or corrections agent to prompt a report to the commissioner regarding criminal convictions as required under section 245C.05, subdivision 7.

Sec. 8. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual ~~is~~:

(1) has been affiliated with a program or facility regulated by the Department of Human Services or Department of Health, a facility serving children or youth licensed by the Department of Corrections, or any type of home care agency or provider of personal care assistance services within the preceding year; and

(2) has been convicted of a crime constituting a disqualification under section 245C.14.

(b) For the purpose of this subdivision, "conviction" has the meaning given it in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this subdivision and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care programs.

Sec. 9. Minnesota Statutes 2010, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. **Contribution amount.** (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute to the cost of services used by making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act. The parental contribution is a partial or full payment for medical services provided for diagnostic, therapeutic, curing, treating, mitigating, rehabilitation, maintenance, and personal care services as defined in United States Code, title 26, section 213, needed by the child with a chronic illness or disability.

(b) For households with adjusted gross income equal to or greater than 100 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is \$4 per month;

(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to ~~545~~ 525 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to ~~7.5~~ eight percent of adjusted gross income for those with adjusted gross income up to ~~545~~ 525 percent of federal poverty guidelines;

(3) if the adjusted gross income is greater than ~~545~~ 525 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be ~~7.5~~ 9.5 percent of adjusted gross income;

(4) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than ~~975~~ 900 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at ~~7.5~~ 9.5 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to ~~ten~~ 12 percent of adjusted gross income for those with adjusted gross income up to ~~975~~ 900 percent of federal poverty guidelines; and

(5) if the adjusted gross income is equal to or greater than ~~975~~ 900 percent of federal poverty guidelines, the parental contribution shall be ~~12.5~~ 13.5 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form, except, effective retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted. All reimbursements must include a notice that the amount reimbursed may be taxable income if the parent paid for the parent's fees through an employer's health care flexible spending account under the Internal Revenue Code, section 125, and that the parent is responsible for paying the taxes owed on the amount reimbursed.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:

- (1) the parent applied for insurance for the child;
- (2) the insurer denied insurance;
- (3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and
- (4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

~~(j) Notwithstanding paragraph (b), for the period from July 1, 2010, to June 30, 2013, the parental contribution shall be computed by applying the following contribution schedule to the adjusted gross income of the natural or adoptive parents:~~

~~(1) if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is \$4 per month;~~

~~(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to 525 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to eight percent of adjusted gross income for those with adjusted gross income up to 525 percent of federal poverty guidelines;~~

~~(3) if the adjusted gross income is greater than 525 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 9.5 percent of adjusted gross income;~~

~~(4) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 900 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 9.5 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to 12 percent of adjusted gross income for those with adjusted gross income up to 900 percent of federal poverty guidelines; and~~

~~(5) if the adjusted gross income is equal to or greater than 900 percent of federal poverty guidelines, the parental contribution shall be 13.5 percent of adjusted gross income. If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.~~

Sec. 10. Minnesota Statutes 2011 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit; or

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) The scope of hearings involving appeals related to the reduction, suspension, denial, or termination of personal care assistance services under section 256B.0659 shall be limited to the specific issues under written appeal.

(f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.



~~(f)~~ (g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

~~(g)~~ (h) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

**EFFECTIVE DATE.** This section is effective for all notices of action dated on or after July 1, 2012.

Sec. 11. Minnesota Statutes 2010, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. **Income and assets generally.** Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used, except as provided under subdivision 3, paragraph (a), clause (6). Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year. Effective upon federal approval, for children eligible under section 256B.055, subdivision 12, or for home and community-based waiver services whose eligibility for medical assistance is determined without regard to parental income, child support payments, including any payments made by an obligor in satisfaction of or in addition to a temporary or permanent order for child support, and Social Security payments are not counted as income. For families and children, which includes all other eligibility categories, the methodologies under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, shall be used, except that effective October 1, 2003, the earned income disregards and deductions are limited to those in subdivision 1c. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

**EFFECTIVE DATE.** This section is effective April 1, 2012.

Sec. 12. Minnesota Statutes 2011 Supplement, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **Asset limitations for individuals and families.** (a) To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets excluded under the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:

- (1) household goods and personal effects are not considered;
- (2) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered;
- (3) motor vehicles are excluded to the same extent excluded by the supplemental security income program;
- (4) assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses; ~~and~~

(5) for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (d); and

(6) when a person enrolled in medical assistance under section 256B.057, subdivision 9, is age 65 or older and has been enrolled during each of the 24 consecutive months before the person's 65th birthday, the assets owned by the person and the person's spouse must be disregarded, up to the limits of section 256B.057, subdivision 9, paragraph (d), when determining eligibility for medical assistance under section 256B.055, subdivision 7. The income of a spouse of a person enrolled in medical assistance under section 256B.057, subdivision 9, during each of the 24 consecutive months before the person's 65th birthday must be disregarded when determining eligibility for medical assistance under section 256B.055, subdivision 7. Persons eligible under this clause are not subject to the provisions in section 256B.059. A person whose 65th birthday occurs in 2012 or 2013 is required to have qualified for medical assistance under section 256B.057, subdivision 9, prior to age 65 for at least 20 months in the 24 months prior to reaching age 65.

(b) No asset limit shall apply to persons eligible under section 256B.055, subdivision 15.

**EFFECTIVE DATE.** This section is effective April 1, 2012.

Sec. 13. Minnesota Statutes 2011 Supplement, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

(1) but for excess earnings or assets, meets the definition of disabled under the Supplemental Security Income program;

(2) ~~is at least 16 but less than 65 years of age;~~

~~(3) meets the asset limits in paragraph (d); and~~

~~(4) (3) pays a premium and other obligations under paragraph (e).~~

(b) For purposes of eligibility, there is a \$65 earned income disregard. To be eligible for medical assistance under this subdivision, a person must have more than \$65 of earned income. Earned income must have Medicare, Social Security, and applicable state and federal taxes withheld. The person must document earned income tax withholding. Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(c) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician; or

(2) loses employment for reasons not attributable to the enrollee, and is without receipt of earned income may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

(d) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

- (1) all assets excluded under section 256B.056;
- (2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans;
- (3) medical expense accounts set up through the person's employer; and
- (4) spousal assets, including spouse's share of jointly held assets.

(e) All enrollees must pay a premium to be eligible for medical assistance under this subdivision, except as provided under section 256.01, subdivision 18b.

(1) An enrollee must pay the greater of a \$65 premium or the premium calculated based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines.

(2) Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(3) All enrollees who receive unearned income must pay five percent of unearned income in addition to the premium amount, except as provided under section 256.01, subdivision 18b.

(4) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(f) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(g) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(h) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(i) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

(j) The commissioner shall notify enrollees annually beginning at least 24 months before the person's 65th birthday of the medical assistance eligibility rules affecting income, assets, and treatment of a spouse's income and assets that will be applied upon reaching age 65.

(k) For enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner shall reimburse the enrollee for Medicare part B premiums under section 256B.0625, subdivision 15, paragraph (a).

**EFFECTIVE DATE.** This section is effective April 1, 2012.

Sec. 14. Minnesota Statutes 2010, section 256B.0659, is amended by adding a subdivision to read:

Subd. 31. **Appeals.** (a) A recipient who is adversely affected by the reduction, suspension, denial, or termination of services under this section may appeal the decision according to section 256.045. The notice of the reduction, suspension, denial, or termination of services from the lead agency to the applicant or recipient must be made in plain language and must include a form for written appeal. The commissioner may provide lead agencies with a model form for written appeal. The appeal must be in writing and identify the specific issues the recipient would like to have considered in the appeal hearing and a summary of the basis, with supporting professional documentation if available, for contesting the decision.

(b) If a recipient has a change in condition or new information after the date of the assessment, temporary services may be authorized according to section 256B.0652, subdivision 9, until a new assessment is completed.

Sec. 15. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 3a, is amended to read:

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

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

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

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living services under section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining their recommendations regarding the client's care needs. The person conducting the assessment will notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment and must be considered prior to the finalization of the assessment.

(e) The person, or the person's legal representative, must be provided with written recommendations for community-based services, including consumer-directed options, or institutional care that include documentation that the most cost-effective alternatives available were offered to the individual, and alternatives to residential settings, including, but not limited to, foster care settings that are not the primary residence of the license holder. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than institutional care.

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

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

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

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

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

Sec. 16. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 3c, is amended to read:

Subd. 3c. **Consultation for housing with services.** (a) The purpose of long-term care consultation for registered housing with services is to support persons with current or anticipated long-term care needs in making informed choices among options that include the most cost-effective and least restrictive settings. Prospective residents maintain the right to choose housing with services or assisted living if that option is their preference.

(b) Registered housing with services establishments shall inform all prospective residents of the availability of long-term care consultation and the need to receive and verify the consultation prior to signing a lease or contract. Long-term care consultation for registered housing with services is provided as determined by the commissioner of human services. The service is delivered under a partnership between lead agencies as defined in subdivision 1a, paragraph (d), and the Area Agencies on Aging, and is a point of entry to a combination of telephone-based long-term care options counseling provided by Senior LinkAge Line and in-person long-term care consultation provided by lead agencies. The point of entry service must be provided within five working days of the request of the prospective resident as follows:

(1) the consultation shall be performed in a manner that provides objective and complete information;

(2) the consultation must include a review of the prospective resident's reasons for considering housing with services, the prospective resident's personal goals, a discussion of the prospective resident's immediate and projected long-term care needs, and alternative community services or housing with services settings that may meet the prospective resident's needs;

(3) the prospective resident shall be informed of the availability of a face-to-face visit at no charge to the prospective resident to assist the prospective resident in assessment and planning to meet the prospective resident's long-term care needs; and

(4) verification of counseling shall be generated and provided to the prospective resident by Senior LinkAge Line upon completion of the telephone-based counseling.

(c) Housing with services establishments registered under chapter 144D shall:

(1) inform all prospective residents of the availability of and contact information for consultation services under this subdivision;

(2) except for individuals seeking lease-only arrangements in subsidized housing settings, receive a copy of the verification of counseling prior to executing a lease or service contract with the prospective resident, and prior to executing a service contract with individuals who have previously entered into lease-only arrangements; and

(3) retain a copy of the verification of counseling as part of the resident's file.

(d) Exemptions from the consultation requirement under paragraph (b) and emergency admissions to registered housing with services establishments prior to consultation under paragraph (b) are permitted according to policies established by the commissioner.

(e) Prospective residents who have used financial planning services and created a long-term care plan in the 12 months prior to signing a lease or contract with a registered housing with services or assisted living establishment are exempt from the long-term care consultation requirements under this subdivision. Housing with services establishments registered under chapter 144D are exempt from the requirements of paragraph (c), clauses (2) and (3), for prospective residents who are exempt from the requirements of this subdivision.

Sec. 17. Minnesota Statutes 2011 Supplement, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the amount of each component service included in the recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized.

(b) The payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

(c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(d) With the exception of individuals described in subdivision 3a, paragraph (b), the individualized monthly authorized payment for the customized living service plan shall not exceed 50 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly authorized payment for the services described in this clause shall not exceed the limit which was in effect on June 30 of the previous state fiscal year updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.

(e) Effective July 1, 2011, the individualized monthly payment for the customized living service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly authorized payment limit for customized living for individuals classified as case mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a, paragraph (b). This monthly limit also applies to all other participants who meet the criteria described in subdivision 3a, paragraph (b), at reassessment.

(f) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. All customized living service participants must have a private bedroom unless they choose to share a bedroom with no more than one other family member, except for participants who live in a customized living setting that limits participants to two people per unit. Licensed home care providers are subject to section 256B.0651, subdivision 14.

(g) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (d), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

Sec. 18. Minnesota Statutes 2010, section 256B.0915, subdivision 3g, is amended to read:

Subd. 3g. **Service rate limits; state assumption of costs.** (a) To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver, the commissioner shall establish statewide maximum service rate limits and eliminate lead agency-specific service rate limits.

(b) Effective July 1, 2001, for service rate limits, except those described or defined in subdivisions 3d and 3e, the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.

(c) Lead agencies may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.

(d) Notwithstanding the requirements of paragraphs (a) through (c), or the requirements in subdivisions 3e and 3h, and as part of waiver reform proposals developed under authority in section 256B.021, subdivision 4, paragraphs (f) and (g), the commissioner may develop proposals for alternative or enhanced service payment rate systems for purposes of ensuring reasonable and adequate access to home and community-based services for elderly waiver participants throughout the state based on criteria established to designate areas as critical access home and community-based service areas. These proposals, to be submitted to the legislature no later than February 15, 2013, must be based on an evaluation of statewide capacity and the determination of critical access home and community-based services areas. Alternative or enhanced service payment rate systems will be limited to providers delivering services to individuals residing in communities, counties, or groups of counties designated as critical access areas for home and community-based services. The commissioner shall consult with stakeholders who authorize and provide elderly waiver services as well as with consumer advocates and the ombudsman for long-term care.

(1) Alternative or enhanced payment rate systems may be developed in designated areas for elderly waiver services providers that may include:

(i) licensed home care providers qualified to enroll in Minnesota health care programs that are delivering services in housing with services establishments in critical access areas of the state;

(ii) providers as described in subdivision 3h, paragraph (g). Any calculation of an enhanced or alternative service rate under this clause or clause (i), must be limited to services only and cannot include rent, utilities, raw food, or nonallowable service component costs or charges; and

(iii) other nonresidential elderly waiver services.

(2) In order to develop critical access criteria and alternative or enhanced payment systems for critical access home and community-based services areas, the commissioner shall utilize information available from existing sources whenever possible.

(3) Providers applying for alternative or enhanced rates in critical access areas may be required to provide additional information as recommended by the commissioner and approved by the legislature.

Sec. 19. Minnesota Statutes 2011 Supplement, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment rate for 24-hour customized living services is a monthly rate authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the amount of each component service included in each recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting, positioning, or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or



(4) for all new participants enrolled in the program on or after July 1, 2011, and all other participants at their first reassessment after July 1, 2011, dependency in at least three of the following activities of daily living as determined by assessment under section 256B.0911: bathing; dressing; grooming; walking; or eating when the dependency score in eating is three or greater; and needs medication management and at least 50 hours of service per month. The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient.

(c) The payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

(d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050 to 9549.0059, to which elderly waiver service clients are assigned. When there are fewer than 50 authorizations in effect in the case mix resident class, the commissioner shall multiply the calculated service payment rate maximum for the A classification by the standard weight for that classification under Minnesota Rules, parts 9549.0050 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

(1) licensed corporate adult foster homes; or

(2) specialized dementia care units which meet the requirements of section 144D.065 and in which:

(i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

(h) 24-hour customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. All customized living service participants must have a private bedroom unless they choose to share a bedroom with no more than one other family member, except for participants who live in a customized living setting that limits participants to two people per unit. Licensed home care providers are subject to section 256B.0651, subdivision 14.

~~(h)~~ (i) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (e), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

Sec. 20. Minnesota Statutes 2010, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. **Individual service plan.** (a) The individual service plan must:

(1) include the results of the assessment information on the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;

(2) identify the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor;

(3) identify long- and short-range goals for the person;

(4) identify specific services and the amount and frequency of the services to be provided to the person based on assessed needs, preferences, and available resources. The individual service plan shall also specify other services the person needs that are not available;

(5) identify the need for an individual program plan to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(6) identify provider responsibilities to implement and make recommendations for modification to the individual service plan;

(7) include notice of the right to request a conciliation conference or a hearing under section 256.045;

(8) be agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative; and

(9) be reviewed by a health professional if the person has overriding medical needs that impact the delivery of services.

(b) Service planning formats developed for interagency planning such as transition, vocational, and individual family service plans may be substituted for service planning formats developed by county agencies.

(c) Approved, written, and signed changes to a consumer's services that meet the criteria in this subdivision shall be an addendum to that consumer's individual service plan.

Sec. 21. Minnesota Statutes 2010, section 256B.092, subdivision 7, is amended to read:

Subd. 7. **Screening teams.** (a) For persons with developmental disabilities, screening teams shall be established which shall evaluate the need for the level of care provided by residential-based habilitation services, residential services, training and habilitation services, and nursing facility services. The evaluation shall address whether home and community-based services are appropriate for persons who are at risk of placement in an intermediate care facility for persons with developmental disabilities, or for whom there is reasonable indication that they might require this level of care. The screening team shall make an evaluation of need within 60 working days of a request for service by a person with a developmental disability, and within five working days of an emergency admission of a person to an intermediate care facility for persons with developmental disabilities.

(b) The screening team shall consist of the case manager for persons with developmental disabilities, the person, the person's legal guardian or conservator, or the parent if the person is a minor, and a qualified developmental disability professional, as defined in the Code of Federal Regulations, title 42, section 483.430, as amended through June 3, 1988. The case manager may also act as the qualified developmental disability professional if the case manager meets the federal definition.

(c) County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service planning process. The contract shall be limited to public guardianship representation for the screening and individual service planning activities. The contract shall require compliance with the commissioner's instructions and may be for paid or voluntary services.

(d) For persons determined to have overriding health care needs and are seeking admission to a nursing facility or an ICF/MR, or seeking access to home and community-based waived services, a registered nurse must be designated as either the case manager or the qualified developmental disability professional.

(e) For persons under the jurisdiction of a correctional agency, the case manager must consult with the corrections administrator regarding additional health, safety, and supervision needs.

(f) The case manager, with the concurrence of the person, the person's legal guardian or conservator, or the parent if the person is a minor, may invite other individuals to attend meetings of the screening team. With the permission of the person being screened or the person's designated legal representative, the person's current provider of services may submit a written report outlining their recommendations regarding the person's care needs prepared by a direct service employee with at least 20 hours of service to that client. The screening team must notify the provider of the date by which this information is to be submitted. This information must be provided to the screening team and the person or the person's legal representative and must be considered prior to the finalization of the screening.

(g) No member of the screening team shall have any direct or indirect service provider interest in the case.

(h) Nothing in this section shall be construed as requiring the screening team meeting to be separate from the service planning meeting.

Sec. 22. Minnesota Statutes 2011 Supplement, section 256B.097, subdivision 3, is amended to read:

Subd. 3. **State Quality Council.** (a) There is hereby created a State Quality Council which must define regional quality councils, and carry out a community-based, person-directed quality review component, and a comprehensive system for effective incident reporting, investigation, analysis, and follow-up.

(b) By August 1, 2011, the commissioner of human services shall appoint the members of the initial State Quality Council. Members shall include representatives from the following groups:

(1) disability service recipients and their family members;

(2) during the first two years of the State Quality Council, there must be at least three members from the Region 10 stakeholders. As regional quality councils are formed under subdivision 4, each regional quality council shall appoint one member;

(3) disability service providers;

(4) disability advocacy groups; and

(5) county human services agencies and staff from the Department of Human Services and Ombudsman for Mental Health and Developmental Disabilities.

(c) Members of the council who do not receive a salary or wages from an employer for time spent on council duties may receive a per diem payment when performing council duties and functions.

(d) The State Quality Council shall:

(1) assist the Department of Human Services in fulfilling federally mandated obligations by monitoring disability service quality and quality assurance and improvement practices in Minnesota; ~~and~~

(2) establish state quality improvement priorities with methods for achieving results and provide an annual report to the legislative committees with jurisdiction over policy and funding of disability services on the outcomes, improvement priorities, and activities undertaken by the commission during the previous state fiscal year;

(3) identify issues pertaining to financial and personal risk that impede Minnesotans with disabilities from optimizing choice of community-based services; and

(4) recommend to the chairs of the legislative committees with jurisdiction over human services and civil law by January 15, 2013, statutory and rule changes related to the findings under clause (3) that promote individualized service and housing choices balanced with appropriate individualized protection.

(e) The State Quality Council, in partnership with the commissioner, shall:

(1) approve and direct implementation of the community-based, person-directed system established in this section;

(2) recommend an appropriate method of funding this system, and determine the feasibility of the use of Medicaid, licensing fees, as well as other possible funding options;

(3) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems;

(4) establish variable licensure periods not to exceed three years based on outcomes achieved; and

(5) in cooperation with the Quality Assurance Commission, design a transition plan for licensed providers from Region 10 into the alternative licensing system by July 1, 2013.

(f) The State Quality Council shall notify the commissioner of human services that a facility, program, or service has been reviewed by quality assurance team members under subdivision 4, paragraph (b), clause (13), and qualifies for a license.

(g) The State Quality Council, in partnership with the commissioner, shall establish an ongoing review process for the system. The review shall take into account the comprehensive nature of the system which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to persons with disabilities. The review shall address efficiencies and effectiveness of the system.

(h) The State Quality Council may recommend to the commissioner certain variances from the standards governing licensure of programs for persons with disabilities in order to improve the quality of services so long as the recommended variances do not adversely affect the health or safety of persons being served or compromise the qualifications of staff to provide services.

(i) The safety standards, rights, or procedural protections referenced under subdivision 2, paragraph (c), shall not be varied. The State Quality Council may make recommendations to the commissioner or to the legislature in the report required under paragraph (c) regarding alternatives or modifications to the safety standards, rights, or procedural protections referenced under subdivision 2, paragraph (c).

(j) The State Quality Council may hire staff to perform the duties assigned in this subdivision.

Sec. 23. Minnesota Statutes 2010, section 256B.431, subdivision 17e, is amended to read:

Subd. 17e. **Replacement-costs-new per bed limit effective October 1, 2007.** Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), for a total replacement, as defined in subdivision 17d, authorized under section 144A.071 or 144A.073 after July 1, 1999, any building project that is a relocation, renovation, upgrading, or conversion completed on or after July 1, 2001, or any building project eligible for reimbursement under section 256B.434, subdivision 4f, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and \$111,420 per licensed bed in single rooms. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 2000. These amounts must be increased annually as specified in subdivision 3f, paragraph (a), beginning October 1, 2012.

Sec. 24. Minnesota Statutes 2010, section 256B.431, is amended by adding a subdivision to read:

Subd. 45. **Rate adjustments for some moratorium exception projects.** Notwithstanding any other law to the contrary, money available for moratorium exception projects under section 144A.073, subdivisions 2 and 11, shall be used to fund the incremental rate increases resulting from this section for any nursing facility with a moratorium exception project approved under section 144A.073, and completed after August 30, 2010, where the replacement-costs-new limits under subdivision 17e were higher at any time after project approval than at the time of project completion. The commissioner shall calculate the property rate increase for these facilities using the highest set of limits; however, any rate increase under this section shall not be effective until on or after the effective date of this section, contingent upon federal approval. No property rate decrease shall result from this section.

**EFFECTIVE DATE.** This section is effective upon federal approval.

Sec. 25. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments of each recipient's strengths, informal support systems, and need for services shall be completed within 20 working days of the recipient's request as provided in section 256B.0911. Reassessment of each recipient's strengths, support systems, and need for services shall be conducted at least every 12 months and at other times when there has been a significant change in the recipient's functioning. With the permission of the recipient or the recipient's designated legal representative, the recipient's current provider of services may submit a written report outlining their recommendations regarding the recipient's care needs prepared by a direct service employee with at least 20 hours of service to that client. The person conducting the assessment or reassessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment and the person or the person's legal representative and must be considered prior to the finalization of the assessment or reassessment.

(b) There must be a determination that the client requires a hospital level of care or a nursing facility level of care as defined in section 256B.0911, subdivision 4a, paragraph (d), at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(c) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care determination or a nursing facility level of care determination must be accepted for purposes of initial and ongoing access to waiver services payment.

(d) Persons with developmental disabilities who apply for services under the nursing facility level waiver programs shall be screened for the appropriate level of care according to section 256B.092.

(e) Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

(f) The commissioner shall develop criteria to identify recipients whose level of functioning is reasonably expected to improve and reassess these recipients to establish a baseline assessment. Recipients who meet these criteria must have a comprehensive transitional service plan developed under subdivision 15, paragraphs (b) and (c), and be reassessed every six months until there has been no significant change in the recipient's functioning for at least 12 months. After there has been no significant change in the recipient's functioning for at least 12 months, reassessments of the recipient's strengths, informal support systems, and need for services shall be conducted at least every 12 months and at other times when there has been a significant change in the recipient's functioning. Counties, case managers, and service providers are responsible for conducting these reassessments and shall complete the reassessments out of existing funds.

Sec. 26. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 15, is amended to read:

Subd. 15. **Individualized service plan; comprehensive transitional service plan; maintenance service plan.**

(a) Each recipient of home and community-based waived services shall be provided a copy of the written service plan which:

- (1) is developed and signed by the recipient within ten working days of the completion of the assessment;
- (2) meets the assessed needs of the recipient;
- (3) reasonably ensures the health and safety of the recipient;
- (4) promotes independence;
- (5) allows for services to be provided in the most integrated settings; and

(6) provides for an informed choice, as defined in section 256B.77, subdivision 2, paragraph (p), of service and support providers.

(b) In developing the comprehensive transitional service plan, the individual receiving services, the case manager, and the guardian, if applicable, will identify the transitional service plan fundamental service outcome and anticipated timeline to achieve this outcome. Within the first 20 days following a recipient's request for an assessment or reassessment, the transitional service planning team must be identified. A team leader must be identified who will be responsible for assigning responsibility and communicating with team members to ensure implementation of the transition plan and ongoing assessment and communication process. The team leader should be an individual, such as the case manager or guardian, who has the opportunity to follow the recipient to the next level of service.

Within ten days following an assessment, a comprehensive transitional service plan must be developed incorporating elements of a comprehensive functional assessment and including short-term measurable outcomes and timelines for achievement of and reporting on these outcomes. Functional milestones must also be identified and reported according to the timelines agreed upon by the transitional service planning team. In addition, the comprehensive transitional service plan must identify additional supports that may assist in the achievement of the fundamental service outcome such as the development of greater natural community support, increased collaboration among agencies, and technological supports.

The timelines for reporting on functional milestones will prompt a reassessment of services provided, the units of services, rates, and appropriate service providers. It is the responsibility of the transitional service planning team leader to review functional milestone reporting to determine if the milestones are consistent with observable skills and that milestone achievement prompts any needed changes to the comprehensive transitional service plan.

For those whose fundamental transitional service outcome involves the need to procure housing, a plan for the recipient to seek the resources necessary to secure the least restrictive housing possible should be incorporated into the plan, including employment and public supports such as housing access and shelter needy funding.

(c) Counties and other agencies responsible for funding community placement and ongoing community supportive services are responsible for the implementation of the comprehensive transitional service plans. Oversight responsibilities include both ensuring effective transitional service delivery and efficient utilization of funding resources.

(d) Following one year of transitional services, the transitional services planning team will make a determination as to whether or not the individual receiving services requires the current level of continuous and consistent support in order to maintain the recipient's current level of functioning. Recipients who are determined to have not had a significant change in functioning for 12 months must move from a transitional to a maintenance service plan. Recipients on a maintenance service plan must be reassessed to determine if the recipient would benefit from a transitional service plan at least every 12 months and at other times when there has been a significant change in the recipient's functioning. This assessment should consider any changes to technological or natural community supports.

(e) When a county is evaluating denials, reductions, or terminations of home and community-based services under section 256B.49 for an individual, the case manager shall offer to meet with the individual or the individual's guardian in order to discuss the prioritization of service needs within the individualized service plan, comprehensive transitional service plan, or maintenance service plan. The reduction in the authorized services for an individual due to changes in funding for waived services may not exceed the amount needed to ensure medically necessary services to meet the individual's health, safety, and welfare.

(f) At the time of reassessment, local agency case managers shall assess each recipient of community alternatives for disabled individuals or traumatic brain injury waived services currently residing in a licensed adult foster home that is not the primary residence of the license holder, or in which the license holder is not the primary caregiver, to determine if that recipient could appropriately be served in a community-living setting. If appropriate for the recipient, the case manager shall offer the recipient, through a person-centered planning process, the option to receive alternative housing and service options. In the event that the recipient chooses to transfer from the adult foster home, the vacated bed shall not be filled with another recipient of waiver services and group residential housing, unless and the licensed capacity shall be reduced accordingly, unless the savings required by the 2011 licensed bed closure reductions for foster care settings where the physical location is not the primary residence of the license holder are met through voluntary changes described in section 245A.03, subdivision 7, paragraph (f), or as provided under section 245A.03, subdivision 7, paragraph (a), clauses (3) and (4), and the licensed capacity shall be reduced accordingly. ~~If the adult foster home becomes no longer viable due to these transfers, the county agency, with the assistance of the department, shall facilitate a consolidation of settings or closure. This reassessment process shall be completed by June 30, 2012 July 1, 2013.~~

Sec. 27. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 23, is amended to read:

Subd. 23. **Community-living settings.** "Community-living settings" means a single-family home or apartment where the service recipient or their family owns or rents, ~~as demonstrated by a lease agreement,~~ and maintains control over the individual unit: as demonstrated by the lease agreement, or has a plan for transition of a lease from a service provider to the individual. Within two years of signing the initial lease, the service provider shall transfer the lease to the individual. In the event the landlord denies the transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the individual. Community-living settings are subject to the following:

- (1) individuals are not required to receive services;
- (2) individuals are not required to have a disability or specific diagnosis to live in the community-living setting unless state or federal funding for housing requires it;
- (3) individuals may hire service providers of their choice;
- (4) individuals may choose whether to share their household and with whom;
- (5) the home or apartment must include living, sleeping, bathing, and cooking areas;
- (6) individuals must have lockable access and egress;
- (7) individuals must be free to receive visitors and leave the settings at times and for durations of their own choosing;
- (8) leases must not reserve the right to assign units or change unit assignments; and
- (9) access to the greater community must be easily facilitated based on the individual's needs and preferences.

Sec. 28. **[256B.492] HOME AND COMMUNITY-BASED SETTINGS.**

(a) For purposes of the home and community-based waiver programs under sections 256B.092 and 256B.49, home and community-based settings include:

- (1) licensed adult or child foster care settings of four or five, if emergency exception criteria are met; and
- (2) other settings that meet the definition of "community-living settings" under section 256B.49, subdivision 23:
  - (i) in addition to this definition, if a single corporation or entity provides both housing and services, there must be a distinct separation between the housing and services;
  - (ii) individuals may choose a service provider separate from the housing provider without being required to move; and
  - (iii) for settings that meet this definition, individuals with disabilities may reside in up to four units plus 25 percent of the remaining units in the building unless an exception is granted under paragraph (c).

(b) For purposes of the home and community-based waiver programs under sections 256B.092 and 256B.49, home and community-based settings must not:



(1) be located in a building that is also a publicly or privately operated facility that provides institutional treatment or custodial care;

(2) be located in a building on the grounds of, or immediately adjacent to, a public institution;

(3) be a housing complex designed expressly around an individual's diagnosis or disability;

(4) be segregated based on disability, either physically or because of setting characteristics, from the larger community; or

(5) have the qualities of an institution which include, but are not limited to: regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions agreed to and documented in the person's individual service plan shall not result in a residence having the qualities of an institution as long as the restrictions for the person are not imposed upon others in the same residence and are the least restrictive alternative, imposed for the shortest possible time to meet the person's needs.

(c) Upon amendment of the home and community-based services waivers, residential settings which serve persons with disabilities under one of the disability waiver programs in more than 25 percent of the units in a building, but otherwise meet the requirements of this section, may request an exception for the number of units in which services were provided as of January 1, 2012. The commissioner shall grant exception requests which meet the criteria in this section and maintain a list of those settings that have approved exceptions and allow home and community-based waiver payments to be made for services provided.

Sec. 29. Minnesota Statutes 2011 Supplement, section 256B.5012, subdivision 13, is amended to read:

Subd. 13. **ICF/DD rate decrease effective July 1, 2012 2013.** Notwithstanding subdivision 12, for each facility reimbursed under this section, the commissioner shall decrease operating payments equal to 1.67 percent of the operating payment rates in effect on June 30, ~~2012~~ 2013. For each facility, the commissioner shall apply the rate reduction based on occupied beds, using the percentage specified in this subdivision multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding date. The total rate reduction shall include the adjustment provided in section 256B.501, subdivision 12.

Sec. 30. Minnesota Statutes 2010, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the thrifty food plan that are covered are as follows:

(1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

(2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;

(3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;

(4) low cholesterol diet, 25 percent of thrifty food plan;

- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;
- (10) hypoglycemic diet, 15 percent of thrifty food plan; or
- (11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657, subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage, unless allowed under paragraph (g).

(2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy benefit under this paragraph is considered a household of one. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

(3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may be owned, operated, or controlled by the recipient's service provider. In a multifamily building of four or more units, the maximum number of apartments that may be used by recipients of this program shall be 50 percent of the units in a building. ~~This paragraph expires on June 30, 2012.~~ of more than four units, the maximum number of units that may be used by recipients of this program shall be 50 percent of the units in the building. When housing is controlled by the service provider, the individual may choose the individual's own service provider as provided in section 256B.49, subdivision 23, clause (3). When the housing is controlled by the service provider, the service provider shall implement a plan with the recipient to transition the lease to the recipient's name. Within two years of signing the initial lease, the service provider shall transfer the lease entered into under this subdivision to the recipient. In the event the landlord denies this transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the recipient. This paragraph expires June 30, 2016.

Sec. 31. Laws 2011, First Special Session chapter 9, article 7, section 54, is amended to read:

Sec. 54. **CONTINGENCY PROVIDER RATE AND GRANT REDUCTIONS.**

(a) Notwithstanding any other rate reduction in this article, the commissioner of human services shall decrease grants, allocations, reimbursement rates, individual limits, and rate limits, as applicable, by 1.67 percent effective July 1, ~~2012~~ 2013, for services rendered on or after those dates. County or tribal contracts for services specified in this section must be amended to pass through these rate reductions within 60 days of the effective date of the decrease, and must be retroactive from the effective date of the rate decrease.

(b) The rate changes described in this section must be provided to:

(1) home and community-based waived services for persons with developmental disabilities or related conditions, including consumer-directed community supports, under Minnesota Statutes, section 256B.501;

(2) home and community-based waived services for the elderly, including consumer-directed community supports, under Minnesota Statutes, section 256B.0915;

(3) waived services under community alternatives for disabled individuals, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(4) community alternative care waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(5) traumatic brain injury waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(6) nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

(7) personal care services and qualified professional supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

(8) private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7;

(9) day training and habilitation services for adults with developmental disabilities or related conditions, under Minnesota Statutes, sections 252.40 to 252.46, including the additional cost of rate adjustments on day training and habilitation services, provided as a social service under Minnesota Statutes, section 256M.60; and

(10) alternative care services under Minnesota Statutes, section 256B.0913.

(c) A managed care plan receiving state payments for the services in this section must include these decreases in their payments to providers. To implement the rate reductions in this section, capitation rates paid by the commissioner to managed care organizations under Minnesota Statutes, section 256B.69, shall reflect a 2.34 percent reduction for the specified services for the period of January 1, 2013, through June 30, 2013, and a 1.67 percent reduction for those services on and after July 1, 2013.

The above payment rate reduction, allocation rates, and rate limits shall expire for services rendered on December 31, 2013.

Sec. 32. Laws 2011, First Special Session chapter 9, article 10, section 3, subdivision 3, is amended to read:

**Subd. 3. Forecasted Programs**

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

Appropriations by Fund

General	84,680,000	91,978,000
Federal TANF	84,425,000	75,417,000

**(b) MFIP Child Care Assistance Grants** 55,456,000 30,923,000

**(c) General Assistance Grants** 49,192,000 46,938,000

**General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**Emergency General Assistance.** The amount appropriated for emergency general assistance funds is limited to no more than \$6,689,812 in fiscal year 2012 and \$6,729,812 in fiscal year 2013. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

**(d) Minnesota Supplemental Aid Grants** 38,095,000 39,120,000

**(e) Group Residential Housing Grants** 121,080,000 129,238,000

**(f) MinnesotaCare Grants** 295,046,000 317,272,000

This appropriation is from the health care access fund.

**(g) Medical Assistance Grants**

4,501,582,000

4,437,282,000

**Managed Care Incentive Payments.** The commissioner shall not make managed care incentive payments for expanding preventive services during fiscal years beginning July 1, 2011, and July 1, 2012.

**Reduction of Rates for Congregate Living for Individuals with Lower Needs.** Beginning October 1, 2011, through June 30, 2012, lead agencies must reduce rates in effect on January 1, 2011, by ten percent for individuals with lower needs living in foster care settings where the license holder does not share the residence with recipients on the CADI and DD waivers and customized living settings for CADI. Beginning July 1, 2012, lead agencies must reduce rates in effect on January 1, 2011, by ten percent, for individuals living in foster care settings where the license holder does not share the residence with recipients on the CADI and DD waivers and customized living settings for CADI, in a manner that ensures that: (1) an identical percentage of recipients receiving services under each waiver receive a reduction; and (2) the projected savings for this provision for fiscal year 2013 are achieved, notwithstanding whether or not a recipient is an individual with lower needs. Lead agencies must adjust contracts within 60 days of the effective date.

**Reduction of Lead Agency Waiver Allocations to Implement Rate Reductions for Congregate Living for Individuals with Lower Needs.** Beginning October 1, 2011, the commissioner shall reduce lead agency waiver allocations to implement the reduction of rates for individuals with lower needs living in foster care settings where the license holder does not share the residence with recipients on the CADI and DD waivers and customized living settings for CADI.

**Reduce customized living and 24-hour customized living component rates.** Effective July 1, 2011, the commissioner shall reduce elderly waiver customized living and 24-hour customized living component service spending by five percent through reductions in component rates and service rate limits. The commissioner shall adjust the elderly waiver capitation payment rates for managed care organizations paid under Minnesota Statutes, section 256B.69, subdivisions 6a and 23, to reflect reductions in component spending for customized living services and 24-hour customized living services under Minnesota Statutes, section 256B.0915, subdivisions 3e and 3h, for the contract period beginning January 1, 2012. To implement the reduction specified in this provision, capitation rates paid by the commissioner to managed care organizations under Minnesota Statutes, section 256B.69, shall reflect a ten percent reduction for the specified services for the period January 1, 2012, to June 30, 2012, and a five percent reduction for those services on or after July 1, 2012.

**Limit Growth in the Developmental Disability Waiver.** The commissioner shall limit growth in the developmental disability waiver to six diversion allocations per month beginning July 1, 2011, through June 30, 2013, and 15 diversion allocations per month beginning July 1, 2013, through June 30, 2015. Waiver allocations shall be targeted to individuals who meet the priorities for accessing waiver services identified in Minnesota Statutes, 256B.092, subdivision 12. The limits do not include conversions from intermediate care facilities for persons with developmental disabilities. Notwithstanding any contrary provisions in this article, this paragraph expires June 30, 2015.

**Limit Growth in the Community Alternatives for Disabled Individuals Waiver.** The commissioner shall limit growth in the community alternatives for disabled individuals waiver to 60 allocations per month beginning July 1, 2011, through June 30, 2013, and 85 allocations per month beginning July 1, 2013, through June 30, 2015. Waiver allocations must be targeted to individuals who meet the priorities for accessing waiver services identified in Minnesota Statutes, section 256B.49, subdivision 11a. The limits include conversions and diversions, unless the commissioner has approved a plan to convert funding due to the closure or downsizing of a residential facility or nursing facility to serve directly affected individuals on the community alternatives for disabled individuals waiver. Notwithstanding any contrary provisions in this article, this paragraph expires June 30, 2015.

**Personal Care Assistance Relative Care.** The commissioner shall adjust the capitation payment rates for managed care organizations paid under Minnesota Statutes, section 256B.69, to reflect the rate reductions for personal care assistance provided by a relative pursuant to Minnesota Statutes, section 256B.0659, subdivision 11.

(h) <b>Alternative Care Grants</b>	46,421,000	46,035,000
------------------------------------	------------	------------

**Alternative Care Transfer.** Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

(i) <b>Chemical Dependency Entitlement Grants</b>	94,675,000	93,298,000
---	------------	------------

Sec. 33. Laws 2011, First Special Session chapter 9, article 10, section 3, subdivision 4, is amended to read:

Subd. 4. **Grant Programs**

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) **Support Services Grants**

	Appropriations by Fund	
General	8,715,000	8,715,000
Federal TANF	100,525,000	94,611,000

**MFIP Consolidated Fund Grants.** The TANF fund base is reduced by \$10,000,000 each year beginning in fiscal year 2012.

**Subsidized Employment Funding Through ARRA.** The commissioner is authorized to apply for TANF emergency fund grants for subsidized employment activities. Growth in expenditures for subsidized employment within the supported work program and the MFIP consolidated fund over the amount expended in the calendar year quarters in the TANF emergency fund base year shall be used to leverage the TANF emergency fund grants for subsidized employment and to fund supported work. The commissioner shall develop procedures to maximize reimbursement of these expenditures over the TANF emergency fund base year quarters, and may contract directly with employers and providers to maximize these TANF emergency fund grants.

(b) <b>Basic Sliding Fee Child Care Assistance Grants</b>	37,144,000	38,678,000
---	------------	------------

**Base Adjustment.** The general fund base is decreased by \$990,000 in fiscal year 2014 and \$979,000 in fiscal year 2015.

**Child Care and Development Fund Unexpended Balance.** In addition to the amount provided in this section, the commissioner shall expend \$5,000,000 in fiscal year 2012 from the federal child care and development fund unexpended balance for basic sliding fee child care under Minnesota Statutes, section 119B.03. The commissioner shall ensure that all child care and development funds are expended according to the federal child care and development fund regulations.

(c) <b>Child Care Development Grants</b>	774,000	774,000
--	---------	---------

**Base Adjustment.** The general fund base is increased by \$713,000 in fiscal years 2014 and 2015.

(d) <b>Child Support Enforcement Grants</b>	50,000	50,000
---	--------	--------

**Federal Child Support Demonstration Grants.** Federal administrative reimbursement resulting from the federal child support grant expenditures authorized under section 1115a of the Social Security Act is appropriated to the commissioner for this activity.

(e) **Children's Services Grants**

Appropriations by Fund

General	47,949,000	48,507,000
Federal TANF	140,000	140,000

**Adoption Assistance and Relative Custody Assistance Transfer.** The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

**Privatized Adoption Grants.** Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

**Adoption Assistance Incentive Grants.** Federal funds available during fiscal year 2012 and fiscal year 2013 for adoption incentive grants are appropriated to the commissioner for these purposes.

(f) **Children and Community Services Grants** 53,301,000 53,301,000

(g) **Children and Economic Support Grants**

Appropriations by Fund

General	16,103,000	16,180,000
Federal TANF	700,000	0

**Long-Term Homeless Services.** \$700,000 is appropriated from the federal TANF fund for the biennium beginning July 1, 2011, to the commissioner of human services for long-term homeless services for low-income homeless families under Minnesota Statutes, section 256K.26. This is a onetime appropriation and is not added to the base.

**Base Adjustment.** The general fund base is increased by \$42,000 in fiscal year 2014 and \$43,000 in fiscal year 2015.

**Minnesota Food Assistance Program.** \$333,000 in fiscal year 2012 and \$408,000 in fiscal year 2013 are to increase the general fund base for the Minnesota food assistance program. Unexpended funds for fiscal year 2012 do not cancel but are available to the commissioner for this purpose in fiscal year 2013.

(h) **Health Care Grants**

Appropriations by Fund

General	26,000	66,000
Health Care Access	190,000	190,000

**Base Adjustment.** The general fund base is increased by \$24,000 in each of fiscal years 2014 and 2015.

(i) **Aging and Adult Services Grants** 12,154,000 11,456,000



**Aging Grants Reduction.** Effective July 1, 2011, funding for grants made under Minnesota Statutes, sections 256.9754 and 256B.0917, subdivision 13, is reduced by \$3,600,000 for each year of the biennium. These reductions are onetime and do not affect base funding for the 2014-2015 biennium. Grants made during the 2012-2013 biennium under Minnesota Statutes, section 256B.9754, must not be used for new construction or building renovation.

**Essential Community Support Grant Delay.** Upon federal approval to implement the nursing facility level of care on July 1, 2013, essential community supports grants under Minnesota Statutes, section 256B.0917, subdivision 14, are reduced by \$6,410,000 in fiscal year 2013. Base level funding is increased by \$5,541,000 in fiscal year 2014 and \$6,410,000 in fiscal year 2015.

**Base Level Adjustment.** The general fund base is increased by \$10,035,000 in fiscal year 2014 and increased by \$10,901,000 in fiscal year 2015.

(j) Deaf and Hard-of-Hearing Grants	1,936,000	1,767,000
(k) Disabilities Grants	15,945,000	18,284,000

**Grants for Housing Access Services.** In fiscal year 2012, the commissioner shall make available a total of \$161,000 in housing access services grants to individuals who relocate from an adult foster care home to a community living setting for assistance with completion of rental applications or lease agreements; assistance with publicly financed housing options; development of household budgets; and assistance with funding affordable furnishings and related household matters.

**HIV Grants.** The general fund appropriation for the HIV drug and insurance grant program shall be reduced by \$2,425,000 in fiscal year 2012 and increased by \$2,425,000 in fiscal year 2014. These adjustments are onetime and shall not be applied to the base. Notwithstanding any contrary provision, this provision expires June 30, 2014.

**Region 10.** Of this appropriation, \$100,000 each year is for a grant provided under Minnesota Statutes, section 256B.097.

**Base Level Adjustment.** The general fund base is increased by \$2,944,000 in fiscal year 2014 and \$653,000 in fiscal year 2015.

**Local Planning Grants for Creating Alternatives to Congregate Living for Individuals with Lower Needs.** Of this appropriation, \$100,000 in fiscal year 2013 is for administrative functions related to the need determination and planning process required under Minnesota Statutes, sections 144A.351 and

245A.03, subdivision 7, paragraphs (e) and (f). The commissioner shall make available a total of ~~\$250,000 per year~~ \$400,000 in local and regional planning grants, beginning July 1, ~~2011~~ 2012, to assist lead agencies and provider organizations in developing alternatives to congregate living within the available level of resources for the home and community-based services waivers for persons with disabilities.

**Disability Linkage Line.** Of this appropriation, \$125,000 in fiscal year 2012 and \$300,000 in fiscal year 2013 are for assistance to people with disabilities who are considering enrolling in managed care.

**(l) Adult Mental Health Grants**

Appropriations by Fund

General	70,570,000	70,570,000
Health Care Access	750,000	750,000
Lottery Prize	1,508,000	1,508,000

**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for adult mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

**Base Adjustment.** The general fund base is increased by \$200,000 in fiscal years 2014 and 2015.

(m) **Children's Mental Health Grants** 16,457,000 16,457,000

**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for children's mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

**Base Adjustment.** The general fund base is increased by \$225,000 in fiscal years 2014 and 2015.

(n) **Chemical Dependency Nonentitlement Grants** 1,336,000 1,336,000

Sec. 34. **INDEPENDENT LIVING SERVICES BILLING.**

The commissioner shall allow for daily rate and 15-minute increment billing for independent living services under the brain injury (BI) and CADI waivers. If necessary to comply with this requirement, the commissioner shall submit a waiver amendment to the state plan no later than December 31, 2012.

Sec. 35. **COMMUNITY FIRST CHOICE OPTION.**

(a) If the final federal regulations under Community First Choice Option are determined by the commissioner, after consultation with interested stakeholders in paragraph (d), to be compatible with Minnesota's fiscal neutrality and policy requirements for redesigning and simplifying the personal care assistance program, assistance at home and in the community provided through the home and community-based services with waivers, state-funded grants,

and medical assistance-funded services and programs, the commissioner shall develop and request a state plan amendment to establish services, including self-directed options, under section 1915k of the Social Security Act by January 15, 2013, for implementation on July 1, 2013.

(b) The commissioner shall develop and provide to the chairs of the health and human services policy and finance committees, legislation needed to reform and simplify home care, home and community-based services waivers, and other community support services under the Community First Choice Option by February 15, 2013.

(c) Any savings generated by this option shall accrue to the commissioner for development and implementation of community support services under the Community First Choice Option.

(d) The commissioner shall consult with stakeholders, including persons with disabilities and seniors, who represent a range of disabilities, ages, cultures, and geographic locations, their families and guardians, as well as representatives of advocacy organizations, lead agencies, direct support staff, labor unions, and a variety of service provider groups.

**Sec. 36. COMMISSIONER AUTHORITY TO REDUCE 2011 CONGREGATE CARE LOW NEED RATE CUT.**

During fiscal years 2013 and 2014, the commissioner shall reduce the 2011 reduction of rates for congregate living for individuals with lower needs to the extent actions taken under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (f), produce savings beyond the amount needed to meet the licensed bed closure savings requirements of Minnesota Statutes, section 245A.03, subdivision 7, paragraph (e). Each February 1, the commissioner shall report to the chairs of the legislative committees with jurisdiction over health and human services finance on any reductions provided under this section. This section is effective on July 1, 2012, and expires on June 30, 2014.

**Sec. 37. HOME AND COMMUNITY-BASED SERVICES WAIVERS AMENDMENT FOR EXCEPTION.**

(a) By September 1, 2012, the commissioner of human services shall submit amendments to the home and community-based waiver plans consistent with the definition of home and community-based settings under Minnesota Statutes, section 256B.492, including a request to allow an exception for those settings that serve persons with disabilities under a home and community-based service waiver in more than 25 percent of the units in a building as of January 1, 2012, but otherwise meet the definition under Minnesota Statutes, section 256B.492.

(b) Notwithstanding paragraph (a), a program in Hennepin County established as part of a Hennepin County demonstration project by January 1, 2013, is qualified for the exception allowed under paragraph (a).

**Sec. 38. COMMISSIONER TO SEEK AMENDMENT FOR EXCEPTION TO CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY.**

By July 1, 2012, the commissioner of human services shall request an amendment to the home and community-based services waiver for persons with developmental disabilities to establish an exception to the consumer-directed community supports budget methodology to provide up to 20 percent more funds for those participants who have their 21st birthday and graduate from high school during 2013 and 2014 and are enrolled in consumer-directed community supports prior to graduation. The exception may be provided to those who can demonstrate that they will have to leave consumer-directed community supports and use traditional agency services because their needs for services during the day cannot be met within the consumer-directed community supports budget limits. Specific criteria and data to be evaluated for this exception will be developed in consultation with the consumer-directed

community supports stakeholders group prior to submission of the waiver amendment. The experience with this exception shall be used to make changes to the consumer-directed community supports budget methodology to better accommodate the needs of those who transition from school to adult services. The exception process shall be effective upon federal approval for persons eligible during 2013 and 2014. Participants will have access to the higher allocation for up to three years and their plan will be reviewed yearly to determine if additional dollars are needed.

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

Sec. 39. **DIRECTION TO OMBUDSMAN FOR LONG-TERM CARE.**

The ombudsman for long-term care shall:

(1) research the existence of differential treatment based on source of payment in assisted living settings;

(2) convene stakeholders to provide technical assistance and expertise in studying and addressing these issues, including but not limited to consumers, health care and housing providers, advocates representing seniors and younger persons with disabilities or mental health challenges, county representatives, and representatives of the Departments of Health and Human Services; and

(3) submit a report of findings to the legislature no later than January 31, 2013, with recommendations for the development of policies and procedures to prevent and remedy instances of discrimination based on participation in or potential eligibility for medical assistance.

ARTICLE 5

MINNESOTA CHILDREN AND FAMILY INVESTMENT PROGRAM

Section 1. **CITATION.**

Sections 2 to 7 may be cited as the "Minnesota Children and Family Investment Program Act."

Sec. 2. Minnesota Statutes 2010, section 256J.08, is amended by adding a subdivision to read:

Subd. 11b. **Child well-being.** "Child well-being" means a child's developmental progress relative to the child's age, including cognitive, physical, emotional, and social development as measured through developmental screening tools, school achievement, health status, and other relevant standardized measures of development.

Sec. 3. Minnesota Statutes 2010, section 256J.45, subdivision 2, is amended to read:

Subd. 2. **General information.** (a) The MFIP orientation must consist of a presentation that informs caregivers of:

(1) the necessity to obtain immediate employment;

(2) the work incentives under MFIP, including the availability of the federal earned income tax credit and the Minnesota working family tax credit;

(3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP, including a description of the range of work and training activities that are allowable under MFIP to meet the individual needs of participants;

(4) the consequences for failing to comply with the employment plan and other program requirements, and that the county agency may not impose a sanction when failure to comply is due to the unavailability of child care or other circumstances where the participant has good cause under subdivision 3;

(5) the rights, responsibilities, and obligations of participants;

(6) the types and locations of child care services available through the county agency;

(7) the availability and the benefits of the early childhood health and developmental screening under sections 121A.16 to 121A.19; 123B.02, subdivision 16; and 123B.10;

(8) the caregiver's eligibility for transition year child care assistance under section 119B.05;

(9) the availability of all health care programs, including transitional medical assistance;

(10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates;

(11) the caregiver's option to request approval of an education and training plan according to section 256J.53;

(12) the work study programs available under the higher education system; ~~and~~

(13) information about the 60-month time limit exemptions under the family violence waiver and referral information about shelters and programs for victims of family violence; and

(14) the availability and benefits of early childhood health and developmental screening and other early childhood resources and programs.

(b) For MFIP caregivers who are exempt from attending the orientation under subdivision 1, the county agency must provide the information required under paragraph (a), clause (14), via other means.

Sec. 4. Minnesota Statutes 2011 Supplement, section 256J.49, subdivision 13, is amended to read:

Subd. 13. **Work activity.** (a) "Work activity" means any activity in a participant's approved employment plan that leads to employment. For purposes of the MFIP program, this includes activities that meet the definition of work activity under the participation requirements of TANF. Work activity includes:

(1) unsubsidized employment, including work study and paid apprenticeships or internships;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, paid work experience, and supported work when a wage subsidy is provided;

(3) unpaid work experience, including community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and supported work when a wage subsidy is not provided. Unpaid work experience is only an option if the participant has been unable to obtain or maintain paid employment in the competitive labor market, and no paid work experience programs are available to the participant. Prior to placing a participant in unpaid work, the county must inform the participant that the participant will be notified if a paid work experience or supported work position becomes available. Unless a participant consents in writing to participate in unpaid work experience, the participant's employment plan may only include unpaid work experience if including the unpaid work experience in the plan will meet the following criteria:

(i) the unpaid work experience will provide the participant specific skills or experience that cannot be obtained through other work activity options where the participant resides or is willing to reside; and

(ii) the skills or experience gained through the unpaid work experience will result in higher wages for the participant than the participant could earn without the unpaid work experience;

(4) job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;

(5) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;

(6) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(7) providing child care services to a participant who is working in a community service program;

(8) activities included in the employment plan that is developed under section 256J.521, subdivision 3; ~~and~~

(9) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability-; and

(10) attending a child's early childhood activities, including developmental screenings and subsequent referral and follow-up services. MFIP employment and training providers must coordinate with county social service agencies and health plans to assist recipients in arranging referrals indicated by screening results.

(b) "Work activity" does not include activities done for political purposes as defined in section 211B.01, subdivision 6.

Sec. 5. Minnesota Statutes 2010, section 256J.50, is amended by adding a subdivision to read:

Subd. 13. **Child development information.** MFIP employment and training providers and county agencies shall post information regarding child development in areas easily accessible to families participating in MFIP.

Sec. 6. Minnesota Statutes 2010, section 256J.521, subdivision 2, is amended to read:

Subd. 2. **Employment plan; contents.** (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. Notwithstanding this order of preference for activities, priority must be given for activities related to a family violence waiver when developing the employment plan. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

(1) unsubsidized employment;

(2) job search;

(3) subsidized employment or unpaid work experience;

(4) unsubsidized employment and job readiness education or job skills training;

(5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and

(6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Participants who are determined to have barriers to obtaining or maintaining suitable employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(d) The job counselor and the participant must sign the employment plan to indicate agreement on the contents.

(e) Except as provided under paragraph (f), failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) When a participant fails to meet the agreed-upon hours of participation in paid employment because the participant is not eligible for holiday pay and the participant's place of employment is closed for a holiday, the job counselor shall not impose a sanction or increase the hours of participation in any other activity, including paid employment, to offset the hours that were missed due to the holiday.

(g) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised. At the time of the employment plan review, the job counselor must provide information to participants regarding early childhood development and resources for families. The job counselor is encouraged to allow participants who are participating in at least 20 hours of work activities to also participate in education and training activities in order to meet the federal hourly participation rates.

Sec. 7. **REVISOR INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall substitute the terms "Minnesota Children and Family Investment Program" for "Minnesota Family Investment Program" and "MCFIP" for "MFIP" wherever they appear.

ARTICLE 6  
MISCELLANEOUS

Section 1. Minnesota Statutes 2010, section 245.697, subdivision 1, is amended to read:

Subdivision 1. **Creation.** (a) A State Advisory Council on Mental Health is created. The council must have ~~30~~ 31 members appointed by the governor in accordance with federal requirements. In making the appointments, the governor shall consider appropriate representation of communities of color. The council must be composed of:

- (1) the assistant commissioner of mental health for the department of human services;
- (2) a representative of the Department of Human Services responsible for the medical assistance program;
- (3) one member of each of the ~~four~~ five core mental health professional disciplines (psychiatry, psychology, social work, nursing, and marriage and family therapy);
- (4) one representative from each of the following advocacy groups: Mental Health Association of Minnesota, NAMI-MN, Mental Health Consumer/Survivor Network of Minnesota, and Minnesota Disability Law Center;
- (5) providers of mental health services;
- (6) consumers of mental health services;
- (7) family members of persons with mental illnesses;
- (8) legislators;
- (9) social service agency directors;
- (10) county commissioners; and
- (11) other members reflecting a broad range of community interests, including family physicians, or members as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

(b) The council shall select a chair. Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059. Notwithstanding provisions of section 15.059, the council and its subcommittee on children's mental health do not expire. The commissioner of human services shall provide staff support and supplies to the council.

Sec. 2. Minnesota Statutes 2010, section 254A.19, is amended by adding a subdivision to read:

Subd. 4. **Civil commitments.** A Rule 25 assessment, under Minnesota Rules, part 9530.6615, does not need to be completed for an individual being committed as a chemically dependent person, as defined in section 253B.02, and for the duration of a civil commitment under section 253B.065, 253B.09, or 253B.095 in order for a county to access consolidated chemical dependency treatment funds under section 254B.04. The county must determine if the individual meets the financial eligibility requirements for the consolidated chemical dependency treatment funds under section 254B.04. Nothing in this subdivision shall prohibit placement in a treatment facility or treatment program governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.



Sec. 3. Minnesota Statutes 2010, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity that is ~~under contract with the county board~~ certified under subdivision 4 to operate a program that meets the requirements of ~~section 245.4712, subdivision 2, or 245.4884, subdivision 2,~~ and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a two-hour time block. The two-hour time block must include at least one hour of individual or group psychotherapy. The remainder of the structured treatment program may include individual or group psychotherapy, and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program; and

(4) a therapeutic preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available two hours per day, five days per week, and 12 months of each calendar year. The structured treatment program may include individual or group psychotherapy and individual or group skills training, if included in the client's individual treatment plan. A therapeutic preschool program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) A provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0323;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be time-limited and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) mental health behavioral aide services must be medically necessary treatment services, identified in the child's individual treatment plan and individual behavior plan, which are performed minimally by a paraprofessional qualified according to subdivision 7, paragraph (b), clause (3), and which are designed to improve the functioning of the child in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph (p), as previously taught by a mental health professional or mental health practitioner including:

(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;

(ii) performing as a practice partner or role-play partner;

(iii) reinforcing the child's accomplishments;

(iv) generalizing skill-building activities in the child's multiple natural settings;

(v) assigning further practice activities; and

(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.

A mental health behavioral aide must document the delivery of services in written progress notes. The mental health behavioral aide must implement treatment strategies in the individual treatment plan and the individual behavior plan. The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and

(5) direction of a mental health behavioral aide must include the following:

(i) a clinical supervision plan approved by the responsible mental health professional;

(ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and

(iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Sec. 4. Minnesota Statutes 2011 Supplement, section 256M.40, subdivision 1, is amended to read:

Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under this chapter to each county board on a calendar year basis in an amount determined according to the formula in paragraphs (a) to ~~(e)~~ (f).

(a) For calendar years 2011 ~~and~~ 2012, and 2013, the commissioner shall allocate available funds to each county in proportion to that county's share in calendar year 2010.

(b) For calendar year ~~2013~~ 2014, the commissioner shall allocate available funds to each county as follows:

(1) ~~75~~ 80 percent must be distributed on the basis of the county share in calendar year ~~2012~~ 2013;

~~(2) five percent must be distributed on the basis of the number of persons residing in the county as determined by the most recent data of the state demographer;~~

~~(3) ten percent must be distributed on the basis of the number of vulnerable children that are subjects of reports under chapter 260C and sections 626.556 and 626.5561, and in the county as determined by the most recent data of the commissioner; and~~

~~(4) ten percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.~~

(2) 20 percent must be distributed as follows:

(i) 25 percent must be allocated to cover infrastructure costs for grant implementation which includes a guaranteed floor and an amount based on the county's population size as determined by the commissioner; and

(ii) 75 percent must be allocated based on the need for vulnerable children and adult services as follows:

(A) 70 percent shall be allocated to counties based on the county's average three-year count of vulnerable children who are subjects of family assessments or subjects of accepted reports under sections 626.556 and 626.5561 per 1,000 county child population as determined by the most recent data of the commissioner; and

(B) 30 percent shall be allocated to counties based on the county's average three-year count of vulnerable adults who are subjects of reports accepted for county investigation or emergency protective services under section 626.557 per 1,000 county adult population determined by the most recent data of the commissioner.

(c) For calendar year ~~2014~~ 2015, the commissioner shall allocate available funds to each county as follows:

(1) ~~50~~ 60 percent must be distributed on the basis of the county share in calendar year ~~2012~~ 2013; and

~~(2) Ten percent must be distributed on the basis of the number of persons residing in the county as determined by the most recent data of the state demographer;~~

~~(3) 20 percent must be distributed on the basis of the number of vulnerable children that are subjects of reports under chapter 260C and sections 626.556 and 626.5561, in the county as determined by the most recent data of the commissioner; and~~

~~(4) 20 percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.~~

(2) 40 percent must be distributed as follows:

(i) 25 percent must be allocated to cover infrastructure costs for grant implementation which includes a guaranteed floor and an amount based on the county's population size as determined by the commissioner; and

(ii) 75 percent must be allocated based on the need for vulnerable children and adult services as follows:

(A) 70 percent shall be allocated to counties based on the county's average three-year count of vulnerable children who are subjects of family assessments or subjects of accepted reports under sections 626.556 and 626.5561 per 1,000 county child population as determined by the most recent data of the commissioner; and

(B) 30 percent shall be allocated to counties based on the county's average three-year count of vulnerable adults who are subjects of reports accepted for county investigation or emergency protective services under section 626.557 per 1,000 county adult population determined by the most recent data of the commissioner.

(d) For calendar year ~~2015~~ 2016, the commissioner shall allocate available funds to each county as follows:

(1) ~~25~~ 40 percent must be distributed on the basis of the county share in calendar year ~~2012~~ 2013; and

~~(2) 15 percent must be distributed on the basis of the number of persons residing in the county as determined by the most recent data of the state demographer;~~

~~(3) 30 percent must be distributed on the basis of the number of vulnerable children that are subjects of reports under chapter 260C and sections 626.556 and 626.5561, in the county as determined by the most recent data of the commissioner; and~~

~~(4) 30 percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.~~

(2) 60 percent must be distributed as follows:

(i) 25 percent must be allocated to cover infrastructure costs for grant implementation which includes a guaranteed floor and an amount based on the county's population size as determined by the commissioner; and

(ii) 75 percent must be allocated based on the need for vulnerable children and adult services as follows:

(A) 70 percent shall be allocated to counties based on the county's average three-year count of vulnerable children who are subjects of family assessments or subjects of accepted reports under sections 626.556 and 626.5561 per 1,000 county child population as determined by the most recent data of the commissioner; and

(B) 30 percent shall be allocated to counties based on the county's average three-year count of vulnerable adults who are subjects of reports accepted for county investigation or emergency protective services under section 626.557 per 1,000 county adult population determined by the most recent data of the commissioner.

(e) For calendar year ~~2016~~ and each calendar year thereafter 2017, the commissioner shall allocate available funds to each county as follows:

(1) 20 percent must be distributed on the basis of the ~~number of persons residing in the county as determined by the most recent data of the state demographer~~ county share in calendar year 2013; and

~~(2) 40 percent must be distributed on the basis of the number of vulnerable children that are subjects of reports under chapter 260C and sections 626.556 and 626.5561, in the county as determined by the most recent data of the commissioner; and~~

~~(3) 40 percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.~~

(2) 80 percent must be distributed as follows:

(i) 25 percent must be allocated to cover infrastructure costs for grant implementation which includes a guaranteed floor and an amount based on the county's population size as determined by the commissioner; and

(ii) 75 percent must be allocated based on the need for vulnerable children and adult services as follows:

(A) 70 percent shall be allocated to counties based on the county's average three-year count of vulnerable children who are subjects of family assessments or subjects of accepted reports under sections 626.556 and 626.5561 per 1,000 county child population as determined by the most recent data of the commissioner; and

(B) 30 percent shall be allocated to counties based on the county's average three-year count of vulnerable adults who are subjects of reports accepted for county investigation or emergency protective services under section 626.557 per 1,000 county adult population determined by the most recent data of the commissioner.

(f) For calendar year 2018 and each calendar year thereafter, the commissioner shall allocate available funds to each county as follows:

(1) 25 percent must be allocated to cover infrastructure costs for grant implementation which includes a guaranteed floor and an amount based on the county's population size as determined by the commissioner; and

(2) 75 percent must be allocated based on the need for vulnerable children and adult services as follows:

(i) 70 percent shall be allocated to counties based on the county's average three-year count of vulnerable children that are subject of family assessments or subjects of accepted reports under sections 626.556 and 626.5561 per 1,000 county child population as determined by the most recent data of the commissioner; and

(ii) 30 percent shall be allocated to counties based on the county's average three-year count of vulnerable adults that are subjects of reports accepted for county investigation or emergency protective services under section 626.557 per 1,000 county adult population determined by the most recent data of the commissioner.

Sec. 5. Minnesota Statutes 2010, section 462A.29, is amended to read:

#### **462A.29 INTERAGENCY COORDINATION ON HOMELESSNESS.**

(a) The agency shall coordinate services and activities of all state agencies relating to homelessness. The agency shall coordinate an investigation and review of the current system of service delivery to the homeless. The agency may request assistance from other agencies of state government as needed for the execution of the responsibilities under this section and the other agencies shall furnish the assistance upon request.

(b) The Interagency Council on Homelessness established to assist with the execution of the duties of this section shall give priority to improving the coordination of services and activities that reduce the number of children and military veterans who experience homelessness and improve the economic, health, social, and education outcomes for children and military veterans who experience homelessness.

Sec. 6. Minnesota Statutes 2010, section 518A.40, subdivision 4, is amended to read:

Subd. 4. **Change in child care.** (a) When a court order provides for child care expenses, and child care support is not assigned under section 256.741, the public authority, if the public authority provides child support enforcement services, ~~must~~ may suspend collecting the amount allocated for child care expenses when:

~~(1)~~ either party informs the public authority that no child care costs are being incurred; and;

~~(2)~~ (1) the public authority verifies the accuracy of the information with the obligee; ~~or~~

(2) the obligee fails to respond within 30 days of the date of a written request from the public authority for information regarding child care costs. A written or oral response from the obligee that child care costs are being incurred is sufficient for the public authority to continue collecting child care expenses.

The suspension is effective as of the first day of the month following the date that the public authority ~~received the verification~~ either verified the information with the obligee or the obligee failed to respond. The public authority will resume collecting child care expenses when either party provides information that child care costs ~~have resumed~~ are incurred, or when a child care support assignment takes effect under section 256.741, subdivision 4. The resumption is effective as of the first day of the month after the date that the public authority received the information.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, ~~or if the public authority is unable to verify with the obligee that no child care costs are being incurred~~, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension, continuation, or resumption of the collection of child care expenses under this subdivision. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518A.39.

Sec. 7. Laws 2011, First Special Session chapter 9, article 9, section 18, is amended to read:

Sec. 18. **WHITE EARTH BAND OF OJIBWE HUMAN SERVICES PROJECT.**

(a) The commissioner of human services, in consultation with the White Earth Band of Ojibwe, shall transfer legal responsibility to the tribe for providing human services to tribal members and their families who reside on or off the reservation in Mahnomen County. The transfer shall include:

- (1) financing, including federal and state funds, grants, and foundation funds; and
- (2) services to eligible tribal members and families defined as it applies to state programs being transferred to the tribe.

(b) The determination as to which programs will be transferred to the tribe and the timing of the transfer of the programs shall be made by a consensus decision of the governing body of the tribe and the commissioner. The commissioner shall waive existing rules and seek all federal approvals and waivers as needed to carry out the transfer.

(c) When the commissioner approves transfer of programs and the tribe assumes responsibility under this section, Mahnomen County is relieved of responsibility for providing program services to tribal members and their families who live on or off the reservation while the tribal project is in effect and funded, except that a family member who is not a White Earth member may choose to receive services through the tribe or the county. The commissioner shall have authority to redirect funds provided to Mahnomen County for these services, including administrative expenses, to the White Earth Band of Ojibwe Indians.

(d) Upon the successful transfer of legal responsibility for providing human services for tribal members and their families who reside on and off the reservation in Mahnomen County, the commissioner and the White Earth Band of Ojibwe shall develop a plan to transfer legal responsibility for providing human services for tribal members and their families who reside on or off reservation in Clearwater and Becker Counties.

(e) No later than January 15, 2012, the commissioner shall submit a written report detailing the transfer progress to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services. If legislation is needed to fully complete the transfer of legal responsibility for providing human services, the commissioner shall submit proposed legislation along with the written report.

(f) Upon receipt of 100 percent match for health care costs from the Indian Health Service, the first \$500,000 of savings to the state in tribal health care costs shall be distributed to the White Earth Band of Ojibwe to offset the band's cost of implementing the human services project. The remainder of the state savings shall be distributed to the White Earth Band of Ojibwe to supplement services to off-reservation tribal members.

Sec. 8. **FOSTER CARE FOR INDIVIDUALS WITH AUTISM.**

The commissioner of human services shall identify and coordinate with one or more counties that agree to issue a foster care license and authorize funding for people with autism who are currently receiving home and community-based services under Minnesota Statutes, section 256B.092 or 256B.49. Children eligible under this section must be in an out-of-home placement approved by the lead agency that has legal responsibility for the placement. Nothing in this section must be construed as restricting an individual's choice of provider. The commissioner will assist the interested county or counties with obtaining necessary capacity within the moratorium under Minnesota Statutes, section 245A.03, subdivision 7. The commissioner shall coordinate with the interested counties and issue a request for information to identify providers who have the training and skills to meet the needs of the individuals identified in this section.

Sec. 9. **DIRECTION TO COMMISSIONER.**

The commissioner shall develop an optional certification for providers of home and community-based services waivers under Minnesota Statutes, section 256B.092 or 256B.49, that demonstrates competency in working with individuals with autism. Recommended language and an implementation plan will be provided to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2013, as part of the Quality Outcome Standards required under Laws 2010, chapter 352, article 1, section 24.

Sec. 10. **CHEMICAL HEALTH NAVIGATOR PROGRAM.**

(a) The commissioner of human services, in partnership with the counties, tribes, and stakeholders, shall develop a community-based integrated model of care to improve the effectiveness and efficiency of the service continuum for chemically dependent individuals. The plan shall identify methods to reduce duplication of efforts, promote scientifically supported practices, and improve efficiency. This plan shall consider the potential for geographically or demographically disparate impact on individuals who need chemical dependency services.

(b) The commissioner shall provide the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a report detailing necessary statutory and rule changes and a proposed pilot project to implement the plan no later than March 15, 2013.

Sec. 11. **MINNESOTA SPECIALTY HEALTH SERVICES; WILLMAR.**

The commissioner of human services shall manage and restructure department resources to achieve savings in order to continue operations of the Minnesota Health Services, Willmar site, until July 1, 2013.

Sec. 12. **BIENNIAL BUDGET REQUEST; UNIVERSITY OF MINNESOTA.**

Beginning in 2013, as part of the biennial budget request submitted to the Office of Management and Budget, the Board of Regents of the University of Minnesota must include a request for funding for an investment in rural primary care training to be delivered by family practice residence programs to prepare doctors for the practice of primary care medicine in rural areas of the state. The funding request must provide for ongoing support of rural primary care training through the University of Minnesota's general operation and maintenance funding or through dedicated health science funding.

ARTICLE 7  
HEALTH AND HUMAN SERVICES APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2012</u>	<u>2013</u>	<u>Total</u>
<u>General</u>	\$305,000	\$(305,000)	\$-0-
<u>Federal TANF</u>	-0-	4,028,000	4,028,000
<u>State Government Special Revenue</u>	-0-	563,000	563,000
<b><u>Total</u></b>	<b><u>\$305,000</u></b>	<b><u>\$4,286,000</u></b>	<b><u>\$4,591,000</u></b>

Sec. 2. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2011, First Special Session chapter 9, article 10, to the agencies and for the purposes specified in this article. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figures "2012" and "2013" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2012, are effective the day following final enactment unless a different effective date is explicit.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2012**                      **2013**

Sec. 3. **COMMISSIONER OF HUMAN SERVICES**

Subdivision 1. Total Appropriation    **\$305,000**                      **\$3,448,000**

Appropriations by Fund

	<u>2012</u>	<u>2013</u>
<u>General</u>	305,000	(580,000)
<u>Federal TANF</u>	-0-	4,028,000



**Subd. 2. Central Office Operations**Appropriations by Fund

<u>General</u>	<u>4,000</u>	<u>171,000</u>
<u>Federal TANF</u>	<u>-0-</u>	<u>81,000</u>

**Return On Taxpayer Investment Implementation Study.** \$100,000 is appropriated in fiscal year 2013 from the general fund to the commissioner of human services for a grant to the commissioner of management and budget to develop recommendations for implementing a return on taxpayer investment (ROTI) methodology and practice related to human services and corrections programs administered and funded by state and county government. The scope of the study shall include assessments of ROTI initiatives in other states, design implications for Minnesota, and identification of one or more Minnesota institutions of higher education capable of providing rigorous and consistent nonpartisan institutional support for ROTI. The commissioner shall consult with representatives of other state agencies, counties, legislative staff, Minnesota institutions of higher education, and other stakeholders in developing recommendations. The commissioner shall report findings and recommendations to the governor and legislature by November 30, 2012. This appropriation is added to the base.

**Subd. 3. Forecasted Programs**Appropriations by Fund

<u>General</u>	<u>301,000</u>	<u>(1,811,000)</u>
<u>Federal TANF</u>	<u>-0-</u>	<u>607,000</u>

**(a) Group Residential Housing Grants**

**Managing Residential Settings.** If the commissioner's efforts to implement Minnesota Statutes, section 256B.492, results in general fund savings as compared to base level costs in the February 2012 Department of Management and Budget forecast of revenues and expenditures, the savings shall be applied to reduce the reductions to congregate care rates for low-needs individuals specified in Laws 2011, First Special Session chapter 9, effective July 1, 2013.

**(b) Medical Assistance Grants**

**PCA Relative Care Payment Recovery.** Notwithstanding any law to the contrary, and if, at the conclusion of the HealthStar Home Health, Inc et al v. Commissioner of Human Services litigation, the PCA relative rate reduction under Minnesota Statutes, section 256B.0659, subdivision 11, paragraph (c), is upheld, the commissioner is prohibited from recovering the

difference between the 100 percent rate paid to providers and the 80 percent rate, during the period of the temporary injunction issued on October 26, 2011. This section does not prohibit the commissioner from recovering any other overpayments from providers.

**Managing Corporate Foster Care.** The commissioner of human services shall manage foster care beds under Minnesota Statutes, section 245A.03, subdivision 7, in order to reduce costs by \$4,149,000 in fiscal year 2013 as compared to base level costs in the February 2012 Department of Management and Budget forecast of revenues and expenditures. If the department's efforts to implement this provision results in savings greater than \$4,149,000 in fiscal year 2014, the additional savings shall be applied to reduce the reductions to congregate care rates for low-needs individuals specified in Laws 2011, First Special Session chapter 9, effective July 1, 2013.

**Continuing Care Provider Payment Delay.** If the commissioner of human services does not receive the federal waiver requested under Laws 2011, First Special Session chapter 9, article 7, section 52, by July 1, 2012, the commissioner shall delay the last payment or payments in fiscal year 2013 to providers listed in Minnesota Statutes 2011 Supplement, section 256B.5012, subdivision 13, and Laws 2011, First Special Session chapter 9, article 7, section 54, as they existed before the repeal in this act, by up to \$22,854,000 in state match, reduced by any cash basis state share savings from implementing the level of care waiver before July 1, 2013, and make these payments in July 2013. If the commissioner of human services receives the federal waiver requested under Laws 2011, First Special Session chapter 9, article 7, section 52, between July 1, 2012, and June 30, 2013, payments to the providers listed under Minnesota Statutes 2011 Supplement, section 256B.5012, subdivision 13, and Laws 2011, First Special Session chapter 9, article 7, section 54, as they existed before being repealed in this act, in June 2013 shall be reduced by up to \$22,854,000 in state match, as necessary to match the amount of the reduction that would have happened up to the date the waiver is received and the resulting amount must be paid to the providers in July 2013.

**Contingent Managed Care Provider Payment Increases.** Any money received by the state as a result of the cap on earnings in the 2011 contract or 2011 contract amendments for services provided under Minnesota Statutes, sections 256B.69 and 256L.12, shall be used to retroactively increase medical assistance and MinnesotaCare capitation payments to managed care plans for calendar year 2011. The commissioner of human services shall require managed care plans to use the entire amount of any increase in capitation rates provided under this provision to retroactively increase calendar year 2011 payment rates for health care providers employed by or under contract with the plan.

including nursing facilities that provide services to emergency medical assistance recipients, but excluding payments to hospitals and other institutional providers for facility, administrative, and other operating costs not related to direct patient care. Increased payments must be distributed in proportion to each provider's share of total plan payments received for services provided to medical assistance and MinnesotaCare enrollees. Any increase in provider payment rates under this provision is onetime and shall not increase base provider payment rates.

**Subd. 4. Grant Programs**

Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>160,000</u>
<u>Federal TANF</u>	<u>-0-</u>	<u>3,340,000</u>

**(a) Support Services Grants**

**Long-Term Homeless Supportive Services.** \$500,000 is appropriated in fiscal year 2013 from the TANF fund for long-term homeless supportive services for low-income families under Minnesota Statutes, section 256K.26. This is a onetime appropriation and is not added to the base.

**Healthy Community Initiatives.** \$300,000 in fiscal year 2013 is appropriated from the TANF fund to the commissioner of human services for contracting with the Search Institute to promote healthy community initiatives. The commissioner may expend up to five percent of the appropriation to provide for the program evaluation. This appropriation must be used to serve families with incomes below 200 percent of the federal poverty guidelines and minor children in the household. This is a onetime appropriation and is available until expended.

**Circles of Support.** \$400,000 in fiscal year 2013 is appropriated from the TANF fund to the commissioner of human services for the purpose of providing grants to three community action agencies for circles of support initiatives. This appropriation must be used to serve families with incomes below 200 percent of the federal poverty guidelines and minor children in the household. This is a onetime appropriation and is available until expended.

**Northern Connections.** \$300,000 is appropriated from the TANF fund in fiscal year 2013 to the commissioner of human services for a grant to Northern Connections in Perham for a workforce program that provides one-stop supportive services to individuals as they transition into the workforce. This appropriation must be used for families with incomes below 200 percent of the federal poverty guidelines and with minor children in the household. This is a onetime appropriation and is available until expended.

**Transitional Housing Services.** \$1,000,000 is appropriated in fiscal year 2013 to the commissioner of human services from the TANF fund for transitional housing services, including the provision of up to four months of rental assistance under Minnesota Statutes, section 256E.33. This appropriation must be used for homeless families with children with incomes below 115 percent of the federal poverty guidelines, and must be coordinated with family stabilization services under Minnesota Statutes, section 256J.575.

**(b) Children and Economic Support Grants**

**Community Action Agencies.** \$250,000 is appropriated in fiscal year 2013 from the TANF fund for grants to community action agencies under Minnesota Statutes, section 256E.30. This appropriation must be used to serve families with income below 200 percent of the federal poverty guidelines and minor children in the household. This is a onetime appropriation and is available until expended.

**MFIP Mentoring Pilot Program.** \$150,000 is appropriated to the commissioner of human services from the TANF fund in fiscal year 2013 for the purpose of providing grants to help five local communities to train and support volunteers mentoring families receiving MFIP. Each pilot program may receive a grant of up to \$30,000. Organizations must apply for grant funds according to the timelines and on the forms prescribed by the commissioner. Organizations receiving grant funding must model their project on the circles of support model. Projects must focus on reducing parents' and their children's isolation and supporting families in making connections within their local communities.

**(c) Basic Sliding Fee Child Care Grants**

**Basic Sliding Fee.** \$292,000 is appropriated from the TANF fund in fiscal year 2013 to the commissioner for the purposes of the absent day policy under Minnesota Statutes, section 119B.13, subdivision 7. \$148,000 in fiscal year 2013 from the TANF fund for a one percent increase in accreditation differential. This appropriation is added to the base.

**(d) Disabilities Grants**

**Living Skills Training for Persons with Intractable Epilepsy.** \$65,000 is appropriated in fiscal year 2013 from the general fund to the commissioner of human services for living skills training programs for persons with intractable epilepsy who need assistance in the transition to independent living under Laws 1988, chapter 689. This is a onetime appropriation and is available until expended.

**Self-advocacy Network for Persons with Disabilities.**

(1) \$95,000 is appropriated from the general fund in fiscal year 2013 to the commissioner of human services to establish and maintain a statewide self-advocacy network for persons with intellectual and developmental disabilities. This is a onetime appropriation and is available until expended.

(2) The self-advocacy network must focus on ensuring that persons with disabilities are:

(i) informed of and educated about their legal rights in the areas of education, employment, housing, transportation, and voting; and

(ii) educated and trained to self-advocate for their rights under law.

(3) Self-advocacy network activities under this section include but are not limited to:

(i) education and training, including preemployment and workplace skills;

(ii) establishment and maintenance of a communication and information exchange system for self-advocacy groups; and

(iii) financial and technical assistance to self-advocacy groups.

Sec. 4. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation**

**\$-0-**

**\$1,086,000**

Appropriations by Fund

	<u>2012</u>	<u>2013</u>
<u>General</u>	<u>-0-</u>	<u>523,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>-0-</u>	<u>563,000</u>

Subd. 2. **Community and Family Health Promotions**

**Autism Study.** \$200,000 is for the commissioner of health, in partnership with the University of Minnesota, to conduct a qualitative study focused on cultural and resource-based aspects of autism spectrum disorders (ASD) that are unique to the Somali community. By February 15, 2013, the commissioner shall report the findings of this study to the legislature. The report must include recommendations as to establishment of a population-based public health surveillance system for ASD.

**Subd. 3. Policy Quality and Compliance**Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>223,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>-0-</u>	<u>563,000</u>

**Licensed Home Care Providers.** \$563,000 from the state government special revenue fund in fiscal year 2013 is to increase inspection and oversight of licensed home care providers under Minnesota Statutes, chapter 144A. This appropriation is added to the base.

**Web Site Changes.** \$36,000 from the general fund is for Web site changes required in article 2, section 17. This is a onetime appropriation and must be shared with the Department of Human Services through an interagency agreement.

**Management and Budget.** \$100,000 from the general fund is for the commissioner to transfer to the commissioner of management and budget for the evaluation and report required in article 2, section 17. This is a onetime appropriation.

**For-Profit HMO Study.** \$79,000 is for a study of for-profit health maintenance organizations. This is onetime and available until expended.

**Nursing Facility Moratorium Exceptions.** (a) Beginning in fiscal year 2013, the commissioner of health may approve moratorium exception projects under Minnesota Statutes, section 144A.073, for which the full annualized state share of medical assistance costs does not exceed \$1,500,000.

(b) In fiscal year 2013, \$8,000 is for administrative costs related to review of moratorium exception projects.

**Subd. 4. Health Protection**

**Aliveness Project.** \$100,000 in fiscal year 2013 is for a grant to the Aliveness Project, a statewide nonprofit, for providing the health and wellness services it has provided to individuals throughout Minnesota since its inception in 1985. The activities and proposed outcomes supported by this onetime appropriation must further the comprehensive plan of the Department of Health, HIV/AIDS program. This is a onetime appropriation and is available until expended.

Sec. 5. **EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2013, unless a different expiration date is explicit.

Sec. 6. **EFFECTIVE DATE.**

The provisions in this article are effective July 1, 2012, unless a different effective date is explicit."

Delete the title and insert:

"A bill for an act relating to state government; making adjustments to health and human services appropriations; making changes to provisions related to health care, the Department of Health, children and family services, continuing care, chemical dependency, child support, background studies, homelessness, and vulnerable children and adults; providing for data sharing; requiring eligibility determinations; requiring the University of Minnesota to request funding for rural primary care training; providing appointments; providing grants; requiring studies and reports; appropriating money; amending Minnesota Statutes 2010, sections 62D.02, subdivision 3; 62D.05, subdivision 6; 62D.12, subdivision 1; 62J.496, subdivision 2; 62Q.80; 62U.04, subdivisions 1, 2, 4, 5; 119B.13, subdivision 3a; 144.1222, by adding a subdivision; 144.292, subdivision 6; 144.293, subdivision 2; 144A.351; 145.906; 245.697, subdivision 1; 245A.03, by adding a subdivision; 245A.11, subdivision 7; 245B.07, subdivision 1; 245C.04, subdivision 6; 245C.05, subdivision 7; 252.27, subdivision 2a; 254A.19, by adding a subdivision; 256.01, by adding subdivisions; 256B.056, subdivision 1a; 256B.0625, subdivisions 9, 28a, by adding subdivisions; 256B.0659, by adding a subdivision; 256B.0751, by adding a subdivision; 256B.0754, subdivision 2; 256B.0915, subdivision 3g; 256B.092, subdivisions 1b, 7; 256B.0943, subdivision 9; 256B.431, subdivision 17e, by adding a subdivision; 256B.441, by adding a subdivision; 256B.69, subdivision 9, by adding subdivisions; 256D.06, subdivision 1b; 256D.44, subdivision 5; 256E.37, subdivision 1; 256I.05, subdivision 1e; 256J.08, by adding a subdivision; 256J.26, subdivision 1, by adding a subdivision; 256J.45, subdivision 2; 256J.50, by adding a subdivision; 256J.521, subdivision 2; 462A.29; 518A.40, subdivision 4; Minnesota Statutes 2011 Supplement, sections 62U.04, subdivisions 3, 9; 119B.13, subdivision 7; 245A.03, subdivision 7; 256.045, subdivision 3; 256.987, subdivisions 1, 2, by adding subdivisions; 256B.056, subdivision 3; 256B.057, subdivision 9; 256B.0625, subdivision 38; 256B.0911, subdivisions 3a, 3c; 256B.0915, subdivisions 3e, 3h; 256B.097, subdivision 3; 256B.49, subdivisions 14, 15, 23; 256B.5012, subdivision 13; 256B.69, subdivisions 5a, 5c; 256E.35, subdivisions 5, 6; 256I.05, subdivision 1a; 256J.49, subdivision 13; 256L.12, subdivision 9; 256M.40, subdivision 1; Laws 2010, chapter 374, section 1; Laws 2011, First Special Session chapter 9, article 7, section 54; article 9, section 18; article 10, section 3, subdivisions 3, 4; proposing coding for new law in Minnesota Statutes, chapters 144; 256B."

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.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 2316, A bill for an act relating to highway construction; requiring a special slurry disposal provision in certain highway construction, improvement, or repair contracts; proposing coding for new law in Minnesota Statutes, chapter 161.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 116.06, subdivision 22, is amended to read:

Subd. 22. **Solid waste.** "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and under rules of the agency; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

Delete the title and insert:

"A bill for an act relating to environment; modifying definition of solid waste to exempt certain highway construction, improvement, or repair activities; amending Minnesota Statutes 2010, section 116.06, subdivision 22."

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 2341, A bill for an act relating to health; requiring a prescribing physician be physically present when certain abortion-inducing drugs are administered; providing for criminal penalty; proposing coding for new law in Minnesota Statutes, chapter 145.

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

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 2343, A bill for an act relating to natural resources; enacting the Freedom to Hunt and Fish Act of 2012; requiring the availability of game and fish licenses by electronic transaction; appropriating money; amending Minnesota Statutes 2010, section 84.027, subdivision 15.

Reported the same back with the following amendments:



Page 1, delete section 1

Page 2, line 27, after the period, insert "As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the first semicolon

With the recommendation that when so amended the bill pass.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 2428, A bill for an act relating to transportation; directing commissioners of transportation and employment and economic development to study and report to the legislature about economic development related to freight railroad operation; amending Minnesota Statutes 2010, section 174.03, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 174.03, subdivision 1b, is amended to read:

Subd. 1b. **Statewide freight and passenger rail plan; freight rail economic development study.** (a) The commissioner shall develop a comprehensive statewide freight and passenger rail plan to be included and revised as a part of the statewide transportation plan.

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

(b) The commissioner, in cooperation with the commissioner of employment and economic development, shall conduct a freight rail economic development study. The study must assess the economic impact of freight railroads in the state and identify opportunities to expand business development and enhance economic competitiveness through improved utilization of freight rail options. The commissioner shall incorporate findings from the study as an amendment or update to the comprehensive statewide freight and passenger rail plan.

(c) The commissioner shall provide an interim progress report by January 15, 2013, and a final report by September 1, 2013, on the freight rail economic development study to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance and employment and economic development. The final report must include any recommended legislative initiatives.

(d) The commissioner may expend money under section 222.50, subdivision 7, to pay the costs of the study and reports under paragraphs (b) and (c).

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

Correct the title numbers accordingly

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.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 2544, A bill for an act relating to insurance; regulating the offer and dissemination of travel insurance; amending Minnesota Statutes 2010, sections 60K.36, subdivision 2; 60K.38, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60K.

Reported the same back with the following amendments:

Page 3, line 24, delete "including its employees." and after "activities" insert ". and those of its employees."

With the recommendation that when so amended the bill pass.

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 2555, A bill for an act relating to state government; implementing changes to the sunset review; changing certain agency requirements; requiring posting of convictions of felonies or gross misdemeanors and malpractice settlements or judgments for a regulated practitioner; requiring certain information on regulated practitioners; requiring a study; prohibiting transfer of certain funds; requiring reports; setting fees; abolishing the Combative Sports Commission and transferring combative sports duties to the commissioner of administration; establishing a Combative Sports Advisory Council; appropriating money; amending Minnesota Statutes 2010, sections 3.922, by adding a subdivision; 3.9223, subdivision 7; 3.9225, subdivision 7; 3.9226, subdivision 7; 147.01, subdivision 4; 147.111, by adding a subdivision; 148.102, by adding a subdivision; 148.263, by adding a subdivision; 148B.07, by adding a subdivision; 148C.095, by adding a subdivision; 148E.285, by adding a subdivision; 150A.13, by adding a subdivision; 153.24, by adding a subdivision; 214.06, subdivision 1, by adding a subdivision; 341.21, by adding a subdivision; 341.28, subdivision 1; 341.37; Minnesota Statutes 2011 Supplement, sections 3D.04; 3D.06; 3D.21, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 3D; 16B; 214; 341; repealing Minnesota Statutes 2010, sections 138A.01; 138A.02; 138A.03; 138A.04; 138A.05; 138A.06; 341.21, subdivisions 3, 4a; 341.22; 341.23; 341.24; 341.26.

Reported the same back with the following amendments:

Page 8, line 7, after the period, insert "Surcharges collected by a health-related licensing board under section 16E.22 are not subject to this section."

Page 12, after line 10, insert:

"Sec. 28. **BOARD OF MEDICAL PRACTICE REVIEW.**

(a) As provided in Minnesota Statutes, section 3.97, subdivision 3a, paragraph (b), the Legislative Audit Commission is requested to direct the legislative auditor to prepare a scoping document in response to the Sunset Advisory Commission's request for an evaluation of the Minnesota Medical Practice Act and its implementation by the Minnesota Board of Medical Practice.

(b) If the Office of the Legislative Auditor is not authorized to carry out the study in paragraph (a) by July 1, 2012, the commissioner of administration must contract for a programmatic and structural review of the Minnesota Board of Medical Practice. The commissioner must contract with the Federation of State Medical Boards to conduct the study. A copy of the review's work plan must be submitted to the chair and vice-chair of the Sunset Advisory Commission for review and comment. The review must be completed and submitted to the Sunset Advisory Commission and the senate and house of representatives policy committees having jurisdiction over the board by January 1, 2013.

(c) \$45,000 from the state government special revenue fund is appropriated to the commissioner for the study. Up to five percent of the appropriation is available to the commissioner for administrative costs related to the study."

Page 13, delete section 29

Page 13, line 17, delete "administration" and insert "labor and industry"

Page 14, line 8, delete "administration" and insert "labor and industry"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 8, delete "administration" and insert "labor and industry"

Page 1, line 9, delete "appropriating money;" and insert "requiring a review of the Minnesota Board of Medical Practice;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Shimanski from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2614, A bill for an act relating to state government; changing the mandatory retirement age for administrative law judges and compensation judges; amending Minnesota Statutes 2010, section 14.48, subdivision 4.

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

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 2634, A bill for an act relating to environment; providing for alternative local standards for subsurface sewage treatment systems; requiring rulemaking; amending Minnesota Statutes 2010, section 115.55, subdivision 7.

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

The report was adopted.

Howes from the Committee on Capital Investment to which was referred:

H. F. No. 2754, A bill for an act relating to capital investment; appropriating money for repair and restoration improvements of the State Capitol; authorizing the sale and issuance of state bonds.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 2784, A bill for an act relating to liquor; clarifying the citation of Minnesota Statutes, chapter 340A; amending Minnesota Statutes 2010, section 340A.901.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 340A.315, is amended by adding a subdivision to read:

Subd. 8. **Bulk wine.** Farm wineries licensed under this section are permitted to purchase and use bulk wine, provided:

(1) the quantity of bulk wine in any farm winery's annual production shall not exceed ten percent of that winery's annual production;

(2) that bulk wine under section 340A.315, subdivision 4, shall be counted as a portion of the 49 percent of product that need not be Minnesota-grown and may be imported from outside Minnesota; and

(3) that the bulk wine must be blended and not directly bottled.

"Bulk wine," as used in this subdivision, means fermented juice from grapes, other fruit bases, or honey.

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

Sec. 2. Minnesota Statutes 2010, section 340A.315, is amended by adding a subdivision to read:

Subd. 9. **Agricultural land.** A farm winery license must be issued for operation of a farm winery on agricultural land, as defined under section 273.13, subdivision 23, paragraph (e). Farm wineries with licenses issued prior to March 1, 2012, are exempt from this provision.

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

Sec. 3. Minnesota Statutes 2010, section 340A.404, subdivision 4a, is amended to read:

Subd. 4a. **Publicly owned recreation; entertainment facilities.** (a) Notwithstanding any other law, local ordinance, or charter provision, the commissioner may issue on-sale intoxicating liquor licenses:

(1) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Giants Ridge Recreation Area building or recreational improvement area owned by the state in the city of Biwabik, St. Louis County;

(2) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Ironworld Discovery Center building or facility owned by the state at Chisholm;

(3) to the Board of Regents of the University of Minnesota for events at Northrop Auditorium, the intercollegiate football stadium, ~~or including any games played by the Minnesota Vikings at the stadium, and~~ at no more than seven other locations within the boundaries of the University of Minnesota, provided that the Board of Regents has approved an application for a license for the specified location and provided that a license for ~~an arena or an intercollegiate football stadium location~~ is void unless it ~~requires the sale or service of intoxicating liquor in a public portion consisting of at least one third of the general seating of a stadium or arena~~ meets the conditions of paragraph (b). It is solely within the discretion of the Board of Regents to choose the manner in which to carry out ~~this condition~~ these conditions consistent with the requirements of paragraph (b); and

(4) to the Duluth Entertainment and Convention Center Authority for beverage sales on the premises of the Duluth Entertainment and Convention Center Arena during intercollegiate hockey games.

The commissioner shall charge a fee for licenses issued under this subdivision in an amount comparable to the fee for comparable licenses issued in surrounding cities.

(b) No alcoholic beverage may be sold or served at TCF Bank Stadium unless the Board of Regents holds an on-sale intoxicating liquor license for the stadium as provided in paragraph (a), clause (3), that provides for the sale of intoxicating liquor at a location in the stadium that is convenient to the general public attending an intercollegiate football game at the stadium. On-sale liquor sales to the general public must be available at that location through half-time of an intercollegiate football game at TCF Bank Stadium.

Sec. 4. Minnesota Statutes 2011 Supplement, section 340A.404, subdivision 5a, is amended to read:

Subd. 5a. **Wine festival.** A municipality with the approval of the commissioner may issue a temporary license to a bona fide association of owners and operators of wineries sponsoring an annual festival to showcase wines produced by members of the association. The commissioner may only approve one temporary license in a calendar year for each qualified association under this subdivision. The license issued under this subdivision authorizes the sale of table, sparkling, or fortified wines produced by the wineries at on-sale by the glass, provided that no more than two glasses per customer may be sold, and off-sale by the bottle, provided that no more than six bottles in total per customer may be sold. The license also authorizes the dispensing of free samples of the wines offered for sale

within designated premises of the festival. A license issued under this subdivision is subject to all laws and ordinances governing the sale, possession, and consumption of table, sparkling, or fortified wines. For purposes of this subdivision, a "bona fide association of owners and operators of wineries" means an association of more than ten wineries that has been in existence for more than two years at the time of application for the temporary license.

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

Sec. 5. **[340A.4042] WINE EDUCATOR; ON-SALE LICENSE.**

The commissioner may issue an on-sale license to a person meeting the requirements specified in sections 340A.402 and 340A.409, at an annual cost of \$250 per license to a wine educator and \$50 per permit for each employee of the wine educator that will be pouring wine, under the following conditions:

(1) the license may be used to purchase wine at retail and serve wine for educational purposes in any part of the state, unless a political subdivision adopts an ordinance prohibiting wine education;

(2) wine educators may conduct classes and dispense wine for tasting purposes, in an amount not to exceed five ounces per hour per person, for a maximum of three hours to any one class in one day;

(3) all events conducted pursuant to this license must be conducted through advance registration, and no walk-in access to the general public is permitted;

(4) licensees must possess certification that is satisfactory to the commissioner, including, but not limited to, a certified specialist of wine or certified wine educator status as conferred by the Society of Wine Educators, a Wine and Spirits Education Trust Diploma, status as a certified sommelier, or the completion of a wine industry program at a technical college or culinary school. A wine educator must also complete Training for Intervention Procedures (TIPS) or other certified alcohol training programs and have a valid certificate on file with the commissioner;

(5) a license holder shall not sell alcohol for off-premises consumption and no orders may be taken for future sales;

(6) classes shall not be conducted at retail businesses that do not have a liquor license during business hours;

(7) prior to providing a class authorized under this section, the licensee shall notify the police chief of the city where the class will take place, if the event will take place within the corporate limits of a city. If the city has no police department, the licensee shall notify the city's clerk. If the class will take place outside the corporate limits of any city, the licensee shall notify the sheriff of the county where the class will take place; and

(8) notwithstanding any law or ordinance to the contrary, a holder of an off-sale license may also have and utilize a wine educator license.

Sec. 6. Minnesota Statutes 2010, section 340A.412, subdivision 14, is amended to read:

Subd. 14. **Exclusive liquor stores.** (a) Except as otherwise provided in this subdivision, an exclusive liquor store may sell only the following items:

(1) alcoholic beverages;

(2) tobacco products;

(3) ice;

- (4) beverages, either liquid or powder, specifically designated for mixing with intoxicating liquor;
- (5) soft drinks;
- (6) liqueur-filled candies;
- (7) food products that contain more than one-half of one percent alcohol by volume;
- (8) cork extraction devices;
- (9) books and videos on the use of alcoholic beverages;
- (10) magazines and other publications published primarily for information and education on alcoholic beverages;
- (11) multiple-use bags designed to carry purchased items;
- (12) devices designed to ensure safe storage and monitoring of alcohol in the home, to prevent access by underage drinkers; ~~and~~
- (13) home brewing equipment; and
- (14) clothing marked with the specific name, brand, or identifying logo of the exclusive liquor store, and bearing no other name, brand, or identifying logo.

(b) An exclusive liquor store that has an on-sale, or combination on-sale and off-sale license may sell food for on-premise consumption when authorized by the municipality issuing the license.

(c) An exclusive liquor store may offer live or recorded entertainment.

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

Sec. 7. Minnesota Statutes 2010, section 340A.419, subdivision 2, is amended to read:

Subd. 2. **Tastings.** (a) Notwithstanding any other law, an exclusive liquor store may conduct a wine, malt liquor, or spirits tasting on the premises of a holder of an on-sale intoxicating liquor license that is not a temporary license or on the premises of a holder of a wine license under section 340A.404, subdivision 5, if the exclusive liquor store complies with this section.

(b) No wine, malt liquor, or spirits authorized for use under this section may be sold for off-premises consumption. A participant in the tasting may fill out a form indicating preferences for wine, malt liquor, or spirits. The form may be held on the premises of the exclusive liquor store to assist the participant in making an off-sale purchase at a later date.

(c) Notwithstanding any other law, an exclusive liquor store may purchase or otherwise obtain wine or spirits for a tasting conducted under this section from a wholesaler licensed to sell wine or spirits. The wholesaler may sell or give wine or spirits to an exclusive liquor store for a tasting conducted under this section and may provide personnel to assist in the tasting.

(d) An exclusive liquor store that conducts a tasting under this section must use any fees collected from participants in the tasting only to defray the cost of conducting the tasting.

(e) Notwithstanding section 340A.409, subdivision 4, the premises on which a tasting is conducted must be insured as required by section 340A.409, subdivision 1.

(f) Exclusive liquor stores may conduct classes for a fee and allow tastings in the conduct of those classes, provided that the amount served at a class is limited to the amount authorized under section 340A.4041.

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

Sec. 8. **WINNEBAGO EXEMPTION; OUT-OF-STATE CRAFT BREWER.**

Notwithstanding any law or ordinance to the contrary, an out-of-state brewer may import malt liquor for sale at retail on one day per calendar year, in the city of Winnebago, provided that the total production of malt liquor produced by the brewer in the prior calendar year was less than 5,000 barrels, and provided that the seller of the malt liquor holds an appropriate retail license. Malt liquor imported under this section must be registered in accordance with section 340A.311.

**EFFECTIVE DATE.** This section is effective upon approval by the Winnebago City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 9. **ON-SALE LICENSE AUTHORIZED.**

Notwithstanding any law or ordinance to the contrary, in addition to the number of licenses authorized, the city of Moorhead may issue an on-sale intoxicating liquor license to the governing body of the Bluestem Center for the Arts for the premises known as the Bluestem Center for the Arts. The license shall authorize the dispensing of intoxicating liquor only to persons attending events on the licensed premises, and shall authorize consumption on the licensed premises only. The license may provide that the governing body of the Bluestem Center for the Arts may contract for intoxicating liquor catering service with the holder of an on-sale intoxicating liquor license issued by the city of Moorhead. The city council shall establish the fee for the license. All provisions of Minnesota Statutes, chapter 340A, governing alcoholic beverages not inconsistent with this law apply to the license.

**EFFECTIVE DATE.** This section is effective upon approval by the Moorhead City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 10. **SPECIAL PROVISION; CITY OF MINNEAPOLIS.**

(a) The city of Minneapolis may extend any interim zoning, liquor licensing, or other approvals granted to Kick's Liquor Store, Inc., a Minnesota corporation currently licensed as an exclusive liquor store doing business as Broadway Liquor Outlet at 2201 West Broadway, where the building housing the business at its current location was damaged beyond reasonable repair by the 2011 tornado, to permit the ongoing interim operation of the business in a temporary structure at the current location prior to the relocation of the business to a permanent facility located across the street at 2200-2220 West Broadway, or as this property is or may be more fully described in the property records of Hennepin County, notwithstanding limitations of law, local ordinances, or charter provisions relating to zoning or liquor licensing.

(b) The city of Minneapolis may grant, renew, or otherwise reissue the existing off-sale intoxicating liquor license to Kick's Liquor Store, Inc., doing business as Broadway Liquor Outlet, upon the relocation of the business to the permanent facility at 2200-2220 West Broadway or as this property is or may be more fully described in the property records of Hennepin County, notwithstanding limitations of law, local ordinances, or charter provisions relating to liquor licensing or contiguous zoning requirements.

**EFFECTIVE DATE.** This section is effective upon approval by the Minneapolis City Council and compliance with Minnesota Statutes, section 645.021



Sec. 11. **EXPIRATION.**

The changes in section 3 to Minnesota Statutes, section 340A.404, subdivision 4a, expire July 1, 2014.

Sec. 12. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 340A.404, subdivision 5a, as Minnesota Statutes, section 340A.4175, and make any necessary cross-reference changes in Minnesota Statutes.

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

Delete the title and insert:

"A bill for an act relating to liquor; modifying liquor regulations; authorizing liquor licenses; amending Minnesota Statutes 2010, sections 340A.315, by adding subdivisions; 340A.404, subdivision 4a; 340A.412, subdivision 14; 340A.419, subdivision 2; Minnesota Statutes 2011 Supplement, section 340A.404, subdivision 5a; proposing coding for new law in Minnesota Statutes, chapter 340A."

With the recommendation that when so amended the bill pass.

The report was adopted.

Shimanski from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2896, A bill for an act relating to public safety; requiring a modification to the sex offender sentencing grid.

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

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 2909, A bill for an act relating to veterans; expanding the purposes for the Minnesota GI Bill program to include apprenticeships and on-the-job training; amending Minnesota Statutes 2010, section 197.791, subdivision 6, by adding a subdivision.

Reported the same back with the following amendments:

Page 2, line 5, before the period, insert ", and not more than \$9,000 in aggregate benefits under this paragraph may be paid to or on behalf of an individual over any period of time"

Page 2, line 15, strike "2013" and insert "2012"

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.

Westrom from the Committee on Civil Law to which was referred:

S. F. No. 1212, A bill for an act relating to health records; adding adult children of a deceased patient to the definition of patient; amending Minnesota Statutes 2010, section 144.291, subdivision 2.

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

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

S. F. No. 1599, A bill for an act relating to veterans affairs; permitting a preference for private employers to hire and promote veterans; permitting a preference for private employers to hire and promote the spouse of a disabled or deceased veteran; proposing coding for new law in Minnesota Statutes, chapter 197.

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

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

S. F. No. 1934, A bill for an act relating to insurance; regulating township mutual fire insurance company combination policies; amending Minnesota Statutes 2010, section 67A.191.

Reported the same back with the following amendments:

Page 1, lines 20 to 23, delete the new language

With the recommendation that when so amended the bill pass.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

S. F. No. 2493, A bill for an act relating to natural resources; appropriating money from the outdoor heritage fund; modifying requirements for outdoor heritage fund appropriations; appropriating money for clean water; appropriating money for an Aquatic Invasive Species Cooperative Research Center; modifying prior appropriations; modifying certain parks and trails grant program provisions; amending Minnesota Statutes 2010, sections 85.535, subdivision 3; 97A.056, by adding subdivisions; Laws 2009, chapter 172, article 3, section 3; Laws 2011, First Special Session chapter 2, article 3, section 2, subdivision 9; Laws 2011, First Special Session chapter 6, article 2, section 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
OUTDOOR HERITAGE FUND

Section 1. **OUTDOOR HERITAGE APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the outdoor heritage fund and are available for the fiscal years indicated for each purpose. The figures "2012" and "2013" used in this article mean that the appropriations listed under the figure are available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. The appropriations in this article are onetime.

	<b><u>APPROPRIATIONS</u></b>	
	<b><u>Available for the Year</u></b>	
	<b><u>Ending June 30</u></b>	
	<b><u>2012</u></b>	<b><u>2013</u></b>
Sec. 2. <b><u>OUTDOOR HERITAGE</u></b>		
Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$-0-</u></b>	<b><u>\$97,420,000</u></b>

This appropriation is from the outdoor heritage fund. The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <b><u>Prairies</u></b>	<b><u>-0-</u></b>	<b><u>24,640,000</u></b>
---------------------------------	-------------------	--------------------------

(a) **Minnesota Buffers for Wildlife and Water - Phase II**

\$2,090,000 in the second year is to the Board of Water and Soil Resources in cooperation with Pheasants Forever to acquire permanent conservation easements to enhance habitat by expanding clean water fund riparian wildlife buffers on private land. A list of proposed permanent conservation easements must be provided as part of the final report. The accomplishment plan must include an easement stewardship plan. Up to \$90,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

(b) **Minnesota Prairie Recovery Project - Phase III**

\$4,610,000 in the second year is to the commissioner of natural resources for an agreement with The Nature Conservancy to acquire native prairie and savanna and restore and enhance

grasslands and savanna. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. Annual income statements and balance sheets for income and expenses from land acquired with this appropriation must be submitted to the Lessard-Sams Outdoor Heritage Council no later than 180 days following the close of The Nature Conservancy's fiscal year.

**(c) Cannon River Headwaters Habitat Complex - Phase II**

\$1,760,000 in the second year is to the commissioner of natural resources for an agreement with The Trust for Public Land to acquire and restore lands in the Cannon River watershed for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, or aquatic management area purposes under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Wildlife Management Area Acquisition**

\$2,900,000 in the second year is to the commissioner of natural resources to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(e) Northern Tallgrass Prairie National Wildlife Refuge Land Acquisition - Phase IV**

\$1,580,000 in the second year is to the commissioner of natural resources for an agreement with The Nature Conservancy in cooperation with the United States Fish and Wildlife Service to acquire land in fee or permanent conservation easements within the Northern Tallgrass Prairie Habitat Preservation Area in western Minnesota for addition to the Northern Tallgrass Prairie National Wildlife Refuge. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan.

**(f) Accelerating the Wildlife Management Area Program - Phase IV**

\$3,300,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(g) Green Corridor Legacy Program - Phase IV**

\$1,730,000 in the second year is to the commissioner of natural resources for an agreement with the Redwood Area Development Corporation to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, and for aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(h) Accelerated Prairie Restoration and Enhancement on DNR Lands - Phase IV**

\$4,300,000 in the second year is to the commissioner of natural resources to accelerate the restoration and enhancement of wildlife management areas, scientific and natural areas, and land under native prairie bank easements. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(i) Anoka Sand Plain Habitat Restoration and Enhancement - Phase II**

\$1,050,000 in the second year is to the commissioner of natural resources for agreements to restore and enhance habitat on public lands in the Anoka Sand Plain and along the Rum River as follows: \$558,750 to Great River Greening; \$99,400 to the Anoka Conservation District; and \$391,850 to the National Wild Turkey Federation. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(j) Enhanced Public Grasslands**

\$1,320,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever in cooperation with the Minnesota Prairie Chicken Society to restore and enhance habitat on public lands. The criteria for selection of projects must be included in the accomplishment plan. A list of proposed restorations and enhancements must be provided as part of the final report.

Subd. 3. **Forests**

-0-

10,300,000

**(a) Protecting Mississippi River Corridor Habitat ACUB Partnership - Phase II**

\$480,000 in the second year is to the Board of Water and Soil Resources to acquire permanent conservation easements on land adjacent to the Nokasippi River and the boundaries of the Minnesota National Guard Army compatible use buffer (ACUB).

A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$4,800 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Mississippi Northwoods Habitat Complex Protection**

\$7,040,000 in the second year is to the commissioner of natural resources to acquire land in fee along the Mississippi River in Crow Wing County to be added to Crow Wing State Forest. Prior to the acquisition, an independent state appraisal must be conducted and the purchase price must not exceed the appraised fair market value determined by the appraisal. A land description must be provided as part of the required accomplishment plan. Development of a paved trail on land acquired under this paragraph constitutes an alteration of the intended use of the interest in real property and must be handled according to Minnesota Statutes, section 97A.056, subdivision 15. The commissioner of natural resources shall consult with the Lessard-Sams Outdoor Heritage Council when planning for any paved trail on land acquired with this appropriation, including any plans for trail alignment.

**(c) Northeastern Minnesota Sharp-Tailed Grouse Habitat Partnership - Phase III**

\$1,340,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever in cooperation with the Minnesota Sharp-Tailed Grouse Society to acquire and enhance lands for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Protect Key Forest Habitat Lands in Cass County - Phase III**

\$480,000 in the second year is to the commissioner of natural resources for an agreement with Cass County to acquire land in fee in Cass County for forest wildlife habitat. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(e) Minnesota Moose Habitat Collaborative**

\$960,000 in the second year is to the commissioner of natural resources for an agreement with the Minnesota Deer Hunters Association to restore and enhance public forest lands in

northeastern Minnesota for moose habitat purposes. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**Subd. 4. Wetlands**

-0-

31,140,000

**(a) Reinvest in Minnesota Wetlands Reserve Program Partnership - Phase IV**

\$13,810,000 in the second year is to the Board of Water and Soil Resources to acquire permanent conservation easements and restore wetlands and associated upland habitat in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of land acquisitions must be provided as part of the final report. The accomplishment plan must include an easement stewardship plan. Up to \$180,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Accelerating the Waterfowl Production Area Program - Phase IV**

\$5,400,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire land in fee to be managed and designated as waterfowl production areas in Minnesota, in cooperation with the United States Fish and Wildlife Service. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(c) Columbus Lake Conservation Area**

\$940,000 in the second year is to the commissioner of natural resources for an agreement with Anoka County to acquire land in fee for conservation purposes that connect wetlands and shallow lakes to the Lamprey Pass Wildlife Management Area. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Living Shallow Lakes and Wetlands Initiative - Phase II**

\$4,490,000 in the second year is to the commissioner of natural resources for an agreement with Ducks Unlimited to assess, restore, and enhance shallow lakes and wetlands, including technical assistance, survey, design, and engineering to develop new enhancement and restoration projects for future implementation. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(e) Accelerated Shallow Lakes and Wetlands Enhancement - Phase IV**

\$3,870,000 in the second year is to the commissioner of natural resources to develop engineering designs and complete construction to enhance shallow lakes and wetlands. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan. Work must be completed within three years of the effective date of this article.

**(f) Marsh Lake Enhancement**

\$2,630,000 in the second year is to the commissioner of natural resources to complete design and construction to modify the dam at Marsh Lake and return the historic outlet of the Pomme de Terre River to Lac Qui Parle.

Subd. 5. **Habitats**

-0-

31,120,000

**(a) DNR Aquatic Habitat - Phase IV**

\$3,480,000 in the second year is to the commissioner of natural resources to acquire interests in land in fee or permanent conservation easements for aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02, and to restore and enhance aquatic habitat. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$25,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Metro Big Rivers Habitat - Phase III**

\$3,680,000 in the second year is to the commissioner of natural resources for agreements to acquire interests in land in fee or permanent conservation easements and to restore and enhance natural systems associated with the Mississippi, Minnesota, and St. Croix Rivers as follows: \$1,000,000 to the Minnesota Valley National Wildlife Refuge Trust, Inc.; \$375,000 to the Friends of the Mississippi; \$375,000 to Great River Greening; \$930,000 to The Minnesota Land Trust; and \$1,000,000 to The Trust for Public Land. A list of proposed acquisitions, restorations, and enhancements must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$51,000 is for establishing a



monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(c) Dakota County Riparian and Lakeshore Protection and Management - Phase III**

\$480,000 in the second year is to the commissioner of natural resources for an agreement with Dakota County to acquire permanent conservation easements and restore and enhance habitats along the Mississippi, Cannon, and Vermillion Rivers. A list of proposed acquisitions, restorations, and enhancements must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$20,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(d) Lower St. Louis River Habitat Restoration**

\$3,670,000 in the second year is to the commissioner of natural resources to restore habitat in the lower St. Louis River estuary. A list of proposed projects must be provided as part of the required accomplishment plan.

**(e) Coldwater Fish Habitat Enhancement - Phase IV**

\$2,120,000 in the second year is to the commissioner of natural resources for an agreement with Minnesota Trout Unlimited to restore and enhance coldwater fish lake, river, and stream habitats in Minnesota. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(f) Grand Marais Creek Outlet Restoration**

\$2,320,000 in the second year is to the commissioner of natural resources for an agreement with the Red Lake Watershed District to restore and enhance stream and related habitat in Grand Marais Creek. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(g) Knife River Habitat Restoration**

\$380,000 in the second year is to the commissioner of natural resources for an agreement with the Lake Superior Steelhead Association to restore trout habitat in the Upper Knife River Watershed. A list of proposed restorations must be provided as part of the required accomplishment plan.

**(h) Protect Aquatic Habitat from Asian Carp**

\$7,500,000 in the second year is to the commissioner of natural resources to design, construct, operate, and evaluate structural deterrents and electric fish barriers for Asian carp to protect Minnesota's aquatic habitat from Asian carp on the Mississippi River. Use of this money requires a one-to-one match for projects on state boundary waters.

**(i) Protect Aquatic Habitat from Aquatic Invasive Species**

\$2,200,000 in the second year is to the Board of Regents of the University of Minnesota for research on aquatic invasive species that threaten or have the potential to threaten the state's lakes, rivers, streams, wetlands, and other aquatic habitats for fish, game, and wildlife. This appropriation is added to the appropriation in article 2, section 4, for the purposes specified in that section and is available until June 30, 2018.

**(j) Aquatic Habitat Restoration Grants**

\$300,000 in the second year is to the commissioner of natural resources for grants to local units of government and lake associations for aquatic habitat restoration.

**(k) Outdoor Heritage Conservation Partners Grant Program - Phase IV**

\$4,990,000 in the second year is to the commissioner of natural resources for a program to provide competitive, matching grants of up to \$400,000 to local, regional, state, and national organizations for enhancing, restoring, or protecting forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. Grants shall not be made for activities required to fulfill the duties of owners of lands subject to conservation easements. Grants shall not be made from appropriations in this paragraph for projects that have a total project cost exceeding \$575,000. \$366,000 of this appropriation may be spent for personnel costs and other direct and necessary administrative costs. Grantees may acquire land or interests in land. Easements must be permanent. Land acquired in fee must be open to hunting and fishing during the open season unless otherwise provided by state law. The program shall require a match of at least ten percent from nonstate sources for all grants. The match may be cash or in-kind resources. For grant applications of \$25,000 or less, the commissioner shall provide a separate, simplified application process. Subject to Minnesota Statutes, the commissioner of natural resources shall, when evaluating projects of equal value, give priority to organizations that have a history of receiving or charter to receive private contributions for local conservation or habitat projects. If acquiring land or a conservation easement, priority shall be given

to projects associated with existing wildlife management areas under Minnesota Statutes, section 86A.05, subdivision 8; scientific and natural areas under Minnesota Statutes, sections 84.033 and 86A.05, subdivision 5; and aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. All restoration or enhancement projects must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15. Priority shall be given to restoration and enhancement projects on public lands. Minnesota Statutes, section 97A.056, subdivision 13, applies to grants awarded under this paragraph. This appropriation is available until June 30, 2016. No less than five percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report by the deadline and in the form prescribed by and satisfactory to the Lessard-Sams Outdoor Heritage Council. The commissioner shall provide notice of the grant program in the game and fish law summaries that are prepared under Minnesota Statutes, section 97A.051, subdivision 2.

**Subd. 6. Administration**

-0-

220,000

**(a) Contract Management**

\$175,000 in the second year is to the commissioner of natural resources for contract management duties assigned in this section. The commissioner shall provide a work program in the form specified by the Lessard-Sams Outdoor Heritage Council on the expenditure of this appropriation. No money may be expended prior to Lessard-Sams Outdoor Heritage Council approval of the work program.

**(b) Technical Evaluation Panel**

\$45,000 in the second year is to the commissioner of natural resources for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 97A.056, subdivision 10.

**Subd. 7. Availability of Appropriation**

Money appropriated in this section may not be spent on activities unless they are directly related to and necessary for a specific appropriation and are specified in the accomplishment plan approved by the Lessard-Sams Outdoor Heritage Council. Money appropriated in this section must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Unless otherwise provided, the amounts in this section are available until June 30, 2015, when projects must be completed and final accomplishments

reported. Funds for restoration or enhancement are available until June 30, 2017, or four years after acquisition, whichever is later, in order to complete initial restoration or enhancement work. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding. Funds appropriated for fee title acquisition of land may be used to restore, enhance, and provide for public use of the land acquired with the appropriation. Public use facilities must have a minimal impact on habitat in acquired lands. If the purchase price for a fee title acquisition funded with an appropriation in this article falls below the estimated purchase price contained in the approved accomplishment plan and no other acquisitions are listed in the approved accomplishment plan, the difference between the purchase price and the estimated purchase price is canceled and returned to the outdoor heritage fund.

**Subd. 8. Payment Conditions and Capital Equipment Expenditures**

All agreements referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Notwithstanding Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2012, or the date of accomplishment plan approval, whichever is later, are eligible for reimbursement unless otherwise provided in this section. Periodic reimbursement must be made upon receiving documentation that the items articulated in the accomplishment plan approved by the Lessard-Sams Outdoor Heritage Council have been achieved, including partial achievements as evidenced by progress reports approved by the Lessard-Sams Outdoor Heritage Council. Reasonable amounts may be advanced to projects to accommodate cash flow needs, support future management of acquired lands, or match a federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures for specific items in excess of \$10,000 must be itemized in and approved as part of the accomplishment plan.

**Sec. 3. [84.972] PRAIRIE AND GRASSLANDS PUBLIC GRAZING PROGRAM.**

The commissioner of natural resources shall establish a prairie and grasslands public grazing program. The commissioner shall enter into cooperative farming agreements or lease agreements with livestock owners to annually graze prairie and grasslands administered by the commissioner where grazing will enhance wildlife habitat, including management of invasive species. The commissioner shall establish a target of at least 50,000 acres of prairie and grasslands to be enrolled in the prairie and grasslands public grazing program. The commissioner shall maintain a list of lands grazed under the program describing the location, acreage, and years grazed. The program shall have a goal of being financially self-sufficient. Unless otherwise provided by law, revenues received under this section shall be deposited in the game and fish fund and are appropriated to the commissioner for purposes of the program.

Sec. 4. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 12. **Accomplishment plans.** It is a condition of acceptance of money appropriated from the outdoor heritage fund that the agency or entity using the appropriation submits an accomplishment plan and periodic accomplishment reports to the Lessard-Sams Outdoor Heritage Council in the form determined by the council. The accomplishment plan must identify the project manager responsible for expending the appropriation and the final product. The accomplishment plan must account for the use of the appropriation and outcomes of the expenditure in measures of wetlands, prairies, forests, and fish, game, and wildlife habitat restored, protected, and enhanced. The plan must include an evaluation of results. If lands are acquired by fee with money from the outdoor heritage fund, the accomplishment plan must include a hunting and fishing management plan for the lands acquired by fee. No money appropriated from the outdoor heritage fund may be expended unless the council has approved the pertinent accomplishment plan.

Sec. 5. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 13. **Project requirements.** (a) As a condition of accepting money appropriated from the outdoor heritage fund, an agency or entity receiving money from an appropriation must comply with this subdivision for any project funded in whole or in part with funds from the appropriation.

(b) All conservation easements acquired with money appropriated from the outdoor heritage fund must:

(1) be permanent;

(2) specify the parties to the easement;

(3) specify all of the provisions of an agreement that are permanent;

(4) specify the habitat types and location being protected;

(5) where appropriate for conservation or water protection outcomes, require the grantor to employ practices retaining water on the eased land as long as practicable;

(6) specify the responsibilities of the parties for habitat enhancement and restoration and the associated costs of these activities;

(7) be sent to the office of the Lessard-Sams Outdoor Heritage Council;

(8) include a long-term stewardship plan and identify the sources and amount of funding for monitoring and enforcing the easement agreement; and

(9) identify the parties responsible for monitoring and enforcing the easement agreement.

(c) For all restorations, a recipient must prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration. The plan must include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use current conservation science to achieve the best restoration.

(d) For new lands acquired, a recipient must prepare a restoration and management plan in compliance with paragraph (c), including identification of sufficient funding for implementation.

(e) To ensure public accountability for the use of public funds, a recipient must provide to the Lessard-Sams Outdoor Heritage Council documentation of the process used to select parcels acquired in fee or as permanent conservation easements and must provide the council with documentation of all related transaction costs, including, but not limited to, appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Lessard-Sams Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to chapter 13.

(f) Except as otherwise provided in the appropriation, all restoration and enhancement projects funded with money appropriated from the outdoor heritage fund must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in section 103G.005, subdivision 15.

(g) To the extent an appropriation is used to acquire an interest in real property, a recipient of an appropriation from the outdoor heritage fund must provide to the Lessard-Sams Outdoor Heritage Council and the commissioner of management and budget an analysis of increased operation and maintenance costs likely to be incurred by public entities as a result of the acquisition and of how the costs are to be paid.

(h) A recipient of money appropriated from the outdoor heritage fund must give consideration to Conservation Corps Minnesota for possible use of the corps' services to contract for restoration and enhancement services.

(i) A recipient of money appropriated from the outdoor heritage fund must erect signage according to Laws 2009, chapter 172, article 5, section 10.

Sec. 6. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 14. **Purchase of recycled and recyclable materials.** A political subdivision, public or private corporation, or other entity that receives money appropriated from the outdoor heritage fund must use the money in compliance with sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

Sec. 7. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 15. **Land acquisition restrictions.** (a) An interest in real property, including, but not limited to, an easement or fee title, that is acquired with money appropriated from the outdoor heritage fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding that acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard-Sams Outdoor Heritage Council or its successor. The council shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval under this paragraph. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

Sec. 8. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 16. **Real property interest report.** (a) By December 1 each year, a recipient of money appropriated from the outdoor heritage fund that is used for the acquisition of an interest in real property, including, but not limited to, an easement or fee title, must submit annual reports on the status of the real property to the Lessard-Sams Outdoor Heritage Council or its successor in a form determined by the council. If lands are acquired by fee with money from the outdoor heritage fund, the real property interest report must include a verification of the status of the hunting and fishing management plan for the lands acquired by fee. The responsibility for reporting under this subdivision may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

(1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;

(2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 15; and

(3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred.

(b) After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this subdivision.

Sec. 9. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 17. **Easement monitoring and enforcement requirements.** Money appropriated from the outdoor heritage fund for easement monitoring and enforcement may be spent only on activities included in an easement monitoring and enforcement plan contained within the accomplishment plan. Money received for monitoring and

enforcement, including earnings on the money received, shall be kept in a monitoring and enforcement fund held by the organization and is appropriated for monitoring and enforcing conservation easements in the state. Within 120 days after the close of the entity's fiscal year, an entity receiving appropriations for easement monitoring and enforcement must provide an annual financial report to the Lessard-Sams Outdoor Heritage Council on the easement monitoring and enforcement fund as specified in the accomplishment plan. Money appropriated from the outdoor heritage fund for monitoring and enforcement of easements and earnings on the money appropriated shall revert to the state if:

(1) the easement transfers to the state under subdivision 15;

(2) the holder of the easement fails to file an annual report and then fails to cure that default within 30 days of notification of the default by the state; or

(3) the holder of the easement fails to comply with the terms of the monitoring and enforcement plan contained within the accomplishment plan and fails to cure that default within 90 days of notification of the default by the state.

Sec. 10. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 18. **Successor organizations.** The Lessard-Sams Outdoor Heritage Council may approve the continuation of a project with an organization that has adopted a new name. Continuation of a project with an organization that has undergone a significant change in mission, structure, or purpose requires:

(1) notice to the chairs of the legislative committees and divisions with jurisdiction over the outdoor heritage fund; and

(2) presentation by the council of proposed legislation either ratifying or rejecting continued involvement with the new organization.

Sec. 11. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 19. **Fee title acquisitions; open to taking fish and game.** (a) Lands acquired by fee with money appropriated from the outdoor heritage fund that are held by the state must be open to the public taking of fish and game during the open season, unless otherwise provided by state law.

(b) Lands acquired by fee with money appropriated from the outdoor heritage fund that are held by the United States Fish and Wildlife Service must be open to the public taking of fish and game during the open season according to the National Wildlife Refuge System Improvement Act, United States Code, title 16, section 668dd, et seq.

(c) Except as provided in paragraph (b), lands acquired by fee with money appropriated from the outdoor heritage fund that are held by a nonstate entity must be open to the public taking of fish and game during the open season, unless otherwise prescribed by the commissioner of natural resources.

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

Sec. 12. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 20. **Pasture land.** (a) For the purposes of this subdivision, "pasture" means any prairie or grassland that had been actively grazed anytime during the ten-year period prior to acquisition and that is acquired in fee for wildlife management area purposes under section 86A.05, subdivision 8.



(b) A recipient of money appropriated from the outdoor heritage fund that is used to acquire, in fee, more than 20 acres of pasture, as defined in paragraph (a), or other existing or restored prairie or grassland where grazing will be used as a wildlife habitat management tool shall:

(1) maintain any existing fencing on the land consistent with a grazing management program;

(2) install new perimeter fencing using funds from the outdoor heritage fund appropriation, unless perimeter fencing capable of containing livestock for grazing is already present; and

(3) enter into an agreement or agreements with a livestock owner or owners to provide sufficient grazing of the pasture to enhance wildlife habitat, including management of invasive species.

(c) The commissioner must annually report the location, acreage, and years grazed for land subject to this subdivision.

Sec. 13. Laws 2011, First Special Session chapter 6, article 1, section 2, subdivision 9, is amended to read:

**Subd. 9. Project Requirements**

(a) As a condition of accepting an appropriation made under this section, an agency or entity receiving an appropriation must comply with this subdivision for any project funded in whole or in part with funds from the appropriation.

(b) All conservation easements acquired with money appropriated under this section must: (1) be permanent; (2) specify the parties to the easement; (3) specify all of the provisions of an agreement that are permanent; (4) specify the habitat types and location being protected; (5) where appropriate for conservation or water protection outcomes, require the grantor to employ practices retaining water on the eased land as long as practicable; (6) specify the responsibilities of the parties for habitat enhancement and restoration and the associated costs of these activities; (7) be sent to the office of the Lessard-Sams Outdoor Heritage Council; (8) include a long-term stewardship plan and identify the sources and amount of funding for monitoring and enforcing the easement agreement; and (9) identify the parties responsible for monitoring and enforcing the easement agreement.

(c) For all restorations, a recipient must prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration projects. The plan must include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use current conservation science to achieve the best restoration.

(d) For new lands acquired, a recipient must prepare a restoration and management plan in compliance with paragraph (c), including identification of sufficient funding for implementation.

(e) To ensure public accountability for the use of public funds, a recipient must provide to the Lessard-Sams Outdoor Heritage Council documentation of the process used to select parcels acquired in fee or as permanent conservation easements and must provide the council with documentation of all related transaction costs, including, but not limited to, appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Lessard-Sams Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13.

(f) Except as otherwise provided in this section, all restoration and enhancement projects funded with money appropriated under this section must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.

(g) To the extent an appropriation is used to acquire an interest in real property, a recipient of an appropriation under this section must provide to the Lessard-Sams Outdoor Heritage Council and the commissioner of management and budget an analysis of increased operations and maintenance costs likely to be incurred by public entities as a result of the acquisition and of how these costs are to be paid.

(h) A recipient of money from an appropriation under this section must give consideration to ~~and make timely written contact with~~ Conservation Corps Minnesota for possible use of the corps' services to contract for restoration and enhancement services. ~~A copy of the written contact must be filed with the Lessard-Sams Outdoor Heritage Council within 15 days of execution.~~

(i) A recipient of money under this section must erect signage according to Laws 2009, chapter 172, article 5, section 10.

Sec. 14. **LEGACY FUNDING REQUIREMENTS APPLY.**

Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, article 5.

ARTICLE 2  
CLEAN WATER FUND

Section 1. Minnesota Statutes 2011 Supplement, section 114D.30, subdivision 4, is amended to read:

Subd. 4. **Terms; compensation; removal.** The terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other nonlegislative members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of nonlegislative council members is as provided in section 15.059, subdivisions 3 and 4. Compensation of legislative members is as determined by the appointing authority. The Pollution Control Agency may reimburse legislative members for expenses. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Sec. 2. Laws 2009, chapter 172, article 2, section 4, as amended by Laws 2010, chapter 361, article 2, section 2, and Laws 2011, First Special Session chapter 6, article 2, section 23, is amended to read:

Sec. 4. <b>POLLUTION CONTROL AGENCY</b>	<b>\$24,076,000</b>	<b>\$27,630,000</b>
---	---------------------	---------------------

(a) \$9,000,000 the first year and \$9,000,000 the second year are to develop total maximum daily load (TMDL) studies and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved impaired waters list in accordance with Minnesota Statutes, chapter 114D. The agency shall complete an average of ten percent of the TMDLs each year over the biennium. Of this amount, \$348,000 the first year is to retest the comprehensive assessment of the biological conditions of the lower Minnesota River and its tributaries within the Lower Minnesota River Major Watershed, as previously assessed from 1976 to 1992 under the Minnesota River Assessment Project (MRAP). The assessment must include the same fish species sampling at the same 116 locations and the same macroinvertebrate sampling at the same 41 locations as the MRAP assessment. The assessment must:

- (1) include an analysis of the findings; and
- (2) identify factors that limit aquatic life in the Minnesota River.

Of this amount, \$250,000 the first year is for a pilot project for the development of total maximum daily load (TMDL) studies conducted on a watershed basis within the Buffalo River watershed in order to protect, enhance, and restore water quality in lakes, rivers, and streams. The pilot project shall include all necessary field work to develop TMDL studies for all impaired subwatersheds within the Buffalo River watershed and provide information necessary to complete reports for most of the remaining watersheds, including analysis of water quality data, identification of sources of water quality degradation and stressors, load allocation development, development of reports that provide protection plans for subwatersheds that meet water quality standards, and development of reports that provide information necessary to complete TMDL studies for subwatersheds that do not meet water quality standards, but are not listed as impaired.

(b) \$500,000 the first year is for development of an enhanced TMDL database to manage and track progress. Of this amount, \$63,000 the first year is to promulgate rules. By November 1, 2010, the commissioner shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources finance on the outcomes achieved with this appropriation.

(c) \$1,500,000 the first year and \$3,169,000 the second year are for grants under Minnesota Statutes, section 116.195, to political subdivisions for up to 50 percent of the costs to predesign, design, and implement capital projects that use storm water or treated municipal wastewater instead of groundwater from drinking water aquifers, in order to demonstrate the beneficial use of wastewater or storm water, including the conservation and protection of water resources. Notwithstanding Minnesota Statutes, section 116.195, of this amount, \$1,000,000 the first year is for grants to ethanol plants that are within one and one-half miles of a city for ~~improvements that use storm water or reuse greater than 300,000 gallons of wastewater per day.~~ 80 percent of the costs to predesign, design, and implement capital improvements that use storm water, reuse greater than 300,000 gallons of wastewater per day, or use innovative technology that utilizes effluent from a commercial water-treatment system in order to reduce the use of groundwater. A grant awarded under this paragraph shall not be used to directly address existing or projected deficiencies in performance in order to meet state or federal environmental regulatory requirements. This appropriation is available until June 30, 2016.

(d) \$1,125,000 the first year and \$1,125,000 the second year are for groundwater assessment and drinking water protection to include:

- (1) the installation and sampling of at least 30 new monitoring wells;
- (2) the analysis of samples from at least 40 shallow monitoring wells each year for the presence of endocrine disrupting compounds; and
- (3) the completion of at least four to five groundwater models for TMDL and watershed plans.

(e) \$2,500,000 the first year is for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater in accordance with Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Any balance remaining in the first year does not cancel and is available for the second year.

(f) \$896,000 the first year is to establish a network of water monitoring sites, to include at least 20 additional sites, in public waters adjacent to wastewater treatment facilities across the state

to assess levels of endocrine-disrupting compounds, antibiotic compounds, and pharmaceuticals as required in this article. The data must be placed on the agency's Web site.

(g) \$155,000 the first year is to provide notification of the potential for coal tar contamination, establish a storm water pond inventory schedule, and develop best management practices for treating and cleaning up contaminated sediments as required in this article. \$490,000 the second year is to provide grants to local units of government for up to 50 percent of the costs to implement best management practices to treat or clean up contaminated sediments in storm water ponds and other waters as defined under this article. Local governments must have adopted an ordinance for the restricted use of undiluted coal tar sealants in order to be eligible for a grant, unless a statewide restriction has been implemented. A grant awarded under this paragraph must not exceed \$100,000. Up to \$145,000 of the appropriation in the second year may be used to complete work required under section 28, paragraph (c).

(h) \$350,000 the first year and \$600,000 the second year are for a restoration project in the lower St. Louis River and Duluth harbor in order to improve water quality. This appropriation must be matched by nonstate money at a rate of at least \$2 for every \$1 of state money.

(i) \$150,000 the first year and \$196,000 the second year are for grants to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North. 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 natural resources finance and policy committees and K-12 finance and policy committees by February 15, 2011.

(j) \$200,000 the first year and \$300,000 the second year are for coordination with the state of Wisconsin and the National Park Service on comprehensive water monitoring and phosphorus reduction activities in the Lake St. Croix portion of the St. Croix River. The Pollution Control Agency shall work with the St. Croix Basin Water Resources Planning Team and the St. Croix River Association in implementing the water monitoring and phosphorus reduction activities. This appropriation is available to the extent matched by nonstate sources. Money not matched by November 15, 2010, cancels for this purpose and is available for the purposes of paragraph (a).

(k) \$7,500,000 the first year and \$7,500,000 the second year are for completion of 20 percent of the needed statewide assessments of surface water quality and trends. Of this amount, \$175,000 the first year and \$200,000 the second year are for monitoring and analyzing endocrine disruptors in surface waters.

(l) \$100,000 the first year and \$150,000 the second year are for civic engagement in TMDL development. The agency shall develop a plan for expenditures under this paragraph. The agency shall give consideration to civic engagement proposals from basin or sub-basin organizations, including the Mississippi Headwaters Board, the Minnesota River Joint Powers Board, Area II Minnesota River Basin Projects, and the Red River Basin Commission. By November 15, 2009, the plan shall be submitted to the house and senate chairs and ranking minority members of the environmental finance divisions.

(m) \$5,000,000 the second year is for groundwater protection or prevention of groundwater degradation activities. By January 15, 2010, the commissioner, in consultation with the commissioner of natural resources, the Board of Water and Soil Resources, and other agencies, shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over the clean water fund on the intended use of these funds. The legislature must approve expenditure of these funds by law.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 3. Laws 2011, First Special Session chapter 6, article 2, section 7, is amended to read:

Sec. 7. <b>BOARD OF WATER AND SOIL RESOURCES</b>	<b>\$27,534,000</b>	<b>\$ <del>27,534,000</del></b>
		<u>31,734,000</u>

(a) \$13,750,000 the first year and ~~\$13,750,000~~ \$15,350,000 the second year are for pollution reduction and restoration grants to local government units and joint powers organizations of local government units to protect surface water and drinking water; to keep water on the land; to protect, enhance, and restore water quality in lakes, rivers, and streams; and to protect groundwater and drinking water, including feedlot water quality and subsurface sewage treatment system (SSTS) projects and stream bank, stream channel, and shoreline restoration projects. The projects must be of long-lasting public benefit, include a match, and be consistent with TMDL implementation plans or local water management plans.

(b) \$3,000,000 the first year and ~~\$3,000,000~~ \$3,600,000 the second year are for targeted local resource protection and enhancement grants. The board shall give priority consideration to projects and practices that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation. Of this amount, at least \$1,500,000 each year is for county SSTS implementation.

(c) \$900,000 the first year and ~~\$900,000~~ \$1,200,000 the second year are to provide state oversight and accountability, evaluate results, and develop an electronic system to measure and track the value of conservation program implementation by local governments, including submission to the legislature by March 1 each year an annual report prepared by the board, in consultation with the commissioners of natural resources, health, agriculture, and the Pollution Control Agency, detailing the recipients and projects funded under this section. The board shall require grantees to specify the outcomes that will be achieved by the grants prior to any grant awards.

(d) \$1,000,000 the first year and ~~\$1,000,000~~ \$1,700,000 the second year are for technical assistance and grants for the conservation drainage program in consultation with the Drainage Work Group, created under Minnesota Statutes, section 103B.101, subdivision 13, that consists of projects to retrofit existing or supplement drainage systems with water quality improvement practices, evaluate outcomes, and provide outreach to landowners, public drainage authorities, drainage engineers and contractors, and others. The board shall coordinate practice standards with the Natural Resources Conservation Service of the United States Department of Agriculture and seek to leverage federal funds as part of conservation drainage program implementation.

(e) \$6,000,000 the first year and \$6,000,000 the second year are to purchase and restore permanent conservation easements on riparian buffers adjacent to public waters, excluding wetlands, to keep water on the land in order to decrease sediment, pollutant, and nutrient transport; reduce hydrologic impacts to surface waters; and increase infiltration for groundwater recharge. The riparian buffers must be at least 50 feet unless there is a natural impediment, a road, or other impediment beyond the control of the landowner. This appropriation may be used for restoration of riparian buffers protected by easements purchased with this appropriation and for stream bank restorations when the riparian buffers have been restored.

(f) \$1,300,000 the first year and ~~\$1,300,000~~ \$2,300,000 the second year are for permanent conservation easements on wellhead protection areas under Minnesota Statutes, section 103F.515, subdivision 2, paragraph (d). Priority must be placed on land that is located where the vulnerability of the drinking water supply is designated as high or very high by the commissioner of health. The board shall coordinate with the United States Geological Survey, the commissioners of health and natural resources, and local communities contained in the Decorah and St. Lawrence Edge areas of Winona, Goodhue, Olmsted, and Wabasha Counties to obtain easements in identified areas as having the most vulnerability to groundwater contamination.

(g) \$1,500,000 the first year and \$1,500,000 the second year are for community partners grants to local units of government for: (1) structural or vegetative management practices that reduce storm water runoff from developed or disturbed lands to reduce the movement of sediment, nutrients, and pollutants for restoration, protection, or enhancement of water quality in lakes, rivers, and streams and to protect groundwater and drinking water; and (2) installation of proven and effective water retention practices including, but not limited to, rain gardens and other vegetated infiltration basins and sediment control basins in order to keep water on the land. The projects must be of long-lasting public benefit, include a local match, and be consistent with TMDL implementation plans or local water management plans. Local government unit staff and administration costs may be used as a match.

(h) \$84,000 the first year and \$84,000 the second year are for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 114D.50, subdivision 6.

(i) The board shall contract for services with Conservation Corps Minnesota for restoration, maintenance, and other activities under this section for \$500,000 the first year and \$500,000 the second year.

(j) The board may shift grant or cost-share funds in this section and may adjust the technical and administrative assistance portion of the funds to leverage federal or other nonstate funds or to address oversight responsibilities or high-priority needs identified in local water management plans.

(k) The appropriations in this section are available until June 30, 2016.

**Sec. 4. AQUATIC INVASIVE SPECIES; APPROPRIATION.**

(a) \$2,200,000 in fiscal year 2013 is appropriated from the clean water fund to the Board of Regents of the University of Minnesota for research, in consultation with other institutions of higher learning in Minnesota, on aquatic invasive species that threaten or have the potential to threaten the water quality of the state's lakes, rivers, and streams. With the approval of the Board of Regents of the University of Minnesota, the appropriation shall fund the following within the College of Food, Agricultural and Natural Resource Sciences' Department of Fisheries, Wildlife and Conservation Biology:

(1) three research assistant professors with three different focus areas, to include environmental DNA, zebra mussels, and fish ecology;

(2) one fish care technician;

(3) five graduate students within the Department of Fisheries, Wildlife and Conservation Biology; and

(4) up to \$1,050,000 in equipment necessary for the research activities under this paragraph.



(b) This is a onetime appropriation and is available until June 30, 2018.

Sec. 5. **LEGACY FUNDING REQUIREMENTS APPLY.**

All appropriations in this article are onetime and are subject to the requirements and availability provisions provided under Laws 2011, First Special Session chapter 6, articles 2 and 5. Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, articles 2 and 5.

ARTICLE 3  
PARKS AND TRAILS FUND

Section 1. Laws 2009, chapter 172, article 3, section 3, is amended to read:

Sec. 3. <b>METROPOLITAN COUNCIL</b>	<b>\$12,641,000</b>	<b>\$15,140,000</b>
-------------------------------------	---------------------	---------------------

(a) \$12,641,000 the first year and \$15,140,000 the second year are from the parks and trails fund to be distributed as required under new Minnesota Statutes, section 85.535, subdivision 3, except that of this amount, \$40,000 the first year is for a grant to Hennepin County to plant trees along the Victory Memorial Parkway. For acquisition of an interest in real property, appropriations under this section are available until June 30, 2013.

(b) The Metropolitan Council shall submit a report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195, by March 1 of each year. The report must detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

(c) Grant agreements entered into by the Metropolitan Council and recipients of money appropriated under this section shall ensure that the funds are used to supplement and not substitute for traditional sources of funding.

(d) The implementing agencies receiving appropriations under this section shall give consideration to contracting with the Minnesota Conservation Corps for contract restoration, maintenance, and other activities.

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

ARTICLE 4  
ARTS AND CULTURAL HERITAGE FUND

Section 1. Minnesota Statutes 2010, section 16B.98, subdivision 5, is amended to read:

Subd. 5. **Creation and validity of grant agreements.** (a) A grant agreement is not valid and the state is not bound by the grant unless:

(1) the grant has been executed by the head of the agency or a delegate who is party to the grant; ~~and~~

(2) the accounting system shows an encumbrance for the amount of the grant in accordance with policy approved by the commissioner; and

(3) the grant agreement includes an effective date that references either section 16C.05, subdivision 2, or 16B.98, subdivisions 5 and 7, as determined by the granting agency.

(b) The combined grant agreement and amendments must not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless the commissioner determines that a longer duration is in the best interest of the state.

(c) A fully executed copy of the grant agreement with all amendments and other required records relating to the grant must be kept on file at the granting agency for a time equal to that required of grantees in subdivision 8.

(d) Grant agreements must comply with policies established by the commissioner for minimum grant agreement standards and practices.

(e) The attorney general may periodically review and evaluate a sample of state agency grants to ensure compliance with applicable laws.

Sec. 2. Minnesota Statutes 2010, section 16B.98, subdivision 7, is amended to read:

Subd. 7. **Grant payments.** Payments to the grantee may not be issued until the grant agreement is fully executed. Encumbrances for grants issued by June 30 may be certified for a period of one year beyond the year in which the funds were originally appropriated as provided by section 16A.28, subdivision 6.

Sec. 3. Minnesota Statutes 2010, section 116U.26, is amended to read:

#### **116U.26 FILM PRODUCTION JOBS PROGRAM.**

(a) The film production jobs program is created. The program shall be operated by the Minnesota Film and TV Board with administrative oversight and control by the ~~director of Explore Minnesota Tourism~~ commissioner of administration. The program shall make payment to producers of feature films, national television or Internet programs, documentaries, music videos, and commercials that directly create new film jobs in Minnesota. To be eligible for a payment, a producer must submit documentation to the Minnesota Film and TV Board of expenditures for production costs incurred in Minnesota that are directly attributable to the production in Minnesota of a film product.

The Minnesota Film and TV Board shall make recommendations to the ~~director of Explore Minnesota Tourism~~ commissioner of administration about program payment, but the ~~director~~ commissioner has the authority to make the final determination on payments. The ~~director's~~ commissioner's determination must be based on proper documentation of eligible production costs submitted for payments. No more than five percent of the funds appropriated for the program in any year may be expended for administration.

(b) For the purposes of this section:

(1) "production costs" means the cost of the following:

(i) a story and scenario to be used for a film;

(ii) salaries of talent, management, and labor, including payments to personal services corporations for the services of a performing artist;

(iii) set construction and operations, wardrobe, accessories, and related services;

(iv) photography, sound synchronization, lighting, and related services;

(v) editing and related services;

(vi) rental of facilities and equipment; or

(vii) other direct costs of producing the film in accordance with generally accepted entertainment industry practice; and

(2) "film" means a feature film, television or Internet show, documentary, music video, or television commercial, whether on film, video, or digital media. Film does not include news, current events, public programming, or a program that includes weather or market reports; a talk show; a production with respect to a questionnaire or contest; a sports event or sports activity; a gala presentation or awards show; a finished production that solicits funds; or a production for which the production company is required under United States Code, title 18, section 2257, to maintain records with respect to a performer portrayed in a single-media or multimedia program.

(c) Notwithstanding any other law to the contrary, the Minnesota Film and TV Board may make reimbursements of: (1) up to 20 percent of film production costs for films that locate production outside the metropolitan area, as defined in section 473.121, subdivision 2, or that incur production costs in excess of \$5,000,000 in the metropolitan area within a 12-month period; or (2) up to 15 percent of film production costs for films that incur production costs of \$5,000,000 or less in the metropolitan area within a 12-month period.

Sec. 4. Laws 2011, First Special Session chapter 6, article 4, section 2, subdivision 5, is amended to read:

Subd. 5. <b>Minnesota Historical Society</b>	12,050,000	<del>12,050,000</del> <u>12,950,000</u>
--	------------	--

These amounts are appropriated to the governing board of the Minnesota Historical Society to preserve and enhance access to Minnesota's history and its cultural and historical resources. Grant agreements entered into by the Minnesota Historical Society and other recipients of appropriations in this subdivision shall ensure that these funds are used to supplement and not substitute for traditional sources of funding. Funds directly appropriated to the Minnesota Historical Society shall be used to supplement, and not substitute for, traditional sources of funding. Notwithstanding Minnesota Statutes, section 16A.28, for historic preservation projects that improve historic structures, the amounts are available until June 30, 2015.

**Statewide Historic and Cultural Grants.** \$5,250,000 the first year and ~~\$5,250,000~~ \$5,450,000 the second year are for history programs and projects operated or conducted by or through local, county, regional, or other historical or cultural organizations; or for activities to preserve significant historic and cultural resources. Funds are to be distributed through a competitive grants process. The Minnesota Historical Society shall administer these funds using established grants mechanisms, with assistance from the advisory committee created under Laws 2009, chapter 172, article 4, section 2, subdivision 4, paragraph (b), item (ii).

**Programs.** \$4,800,000 the first year and ~~\$4,800,000~~ \$5,200,000 the second year are for programs and purposes related to the historical and cultural heritage of the state of Minnesota, conducted by the Minnesota Historical Society.

**History Partnerships.** \$1,500,000 the first year and ~~\$1,500,000~~ \$1,700,000 the second year are for partnerships involving multiple organizations, which may include the Minnesota Historical Society, to preserve and enhance access to Minnesota's history and cultural heritage in all regions of the state.

**Statewide Survey of Historical and Archaeological Sites.** \$250,000 the first year and \$250,000 the second year are for a contract or contracts to be let on a competitive basis to conduct statewide surveys of Minnesota's sites of historical, archaeological, and cultural significance. Results of this survey must be published in a searchable form, available to the public on a cost-free basis. The Minnesota Historical Society, the Office of the State Archaeologist, and the Indian Affairs Council shall each appoint a representative to an oversight board to select contractors and direct the conduct of these surveys. The oversight board shall consult with the Departments of Transportation and Natural Resources.

**Digital Library.** \$250,000 the first year and \$250,000 the second year are for a digital library project to preserve, digitize, and share Minnesota images, documents, and historical materials. The Minnesota Historical Society shall cooperate with the Minitex interlibrary loan system and shall jointly share this appropriation for these purposes.

**Commemoration Activities.** \$100,000 the second year is for activities that commemorate the sesquicentennial of the American Civil War and the Dakota Conflict, as recommended by the Civil War Commemoration Task Force established in Executive Order 11-15 (2011).

Sec. 5. **COMMEMORATION PROGRAMMING; APPROPRIATION.**

\$80,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the commissioner of administration for grants to public broadcasting organizations to develop programming that commemorates the sesquicentennial of the American Civil War and the Dakota Conflict. This appropriation is divided as follows:

(1) \$15,000 is for a grant to Minnesota Public Radio;

(2) \$15,000 is for a grant to the Association of Minnesota Public Educational Radio Stations; and

(3) \$50,000 is for a grant to Twin Cities Public Television to complete production of two historic documentaries and to develop an educational Web site that provides Minnesota educators and students with access to documentary content, video segments, and lesson guides. Notwithstanding Minnesota Statutes, section 129D.17, subdivision 2, paragraph (f), Twin Cities Public Television may spend a portion of this appropriation for travel and filming outside of Minnesota.

Sec. 6. **FILM PRODUCTION INCENTIVE PROGRAM; APPROPRIATION.**

\$600,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the commissioner of administration for a grant to the Independent Feature Project/Minnesota for a new film production incentive program. The Independent Feature Project/Minnesota shall reimburse film producers for eligible production costs incurred to produce a film or documentary in Minnesota. Eligible production costs are expenditures incurred in Minnesota that are directly attributable to the production of a film or documentary in Minnesota. Eligible production costs include talent, management, labor, set construction and operation, wardrobe, sound synchronization, lighting, editing, rental facilities and equipment, and other direct costs of producing a film or documentary in accordance with generally accepted entertainment industry practices. A producer must agree, to the greatest extent possible, to procure all eligible production inputs in Minnesota. A producer must submit proper documentation of eligible production costs incurred. The commissioner of administration may use up to 2-1/2 percent of this appropriation for grant administration costs.

Sec. 7. **HISTORICAL RULEMAKING WEB SITE; APPROPRIATION.**

\$35,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the revisor of statutes to design and implement a Web site to provide the public searchable access to historical documents relating to state agency rulemaking. It is anticipated that the revisor of statutes will match this appropriation from carryforward funds and that the revisor will use the carryforward funds to design and implement a Web site that will provide the public searchable access to future state agency rulemaking documents.

Sec. 8. **LET'S GO FISHING; APPROPRIATION.**

\$100,000 in fiscal year 2013 is appropriated from the arts and cultural heritage fund to the commissioner of natural resources for a grant to Let's Go Fishing of Minnesota to provide community outreach to senior citizens, youth, and veterans and for the costs associated with establishing and recruiting new chapters in order to preserve Minnesota's cultural heritage of fishing. The grants must be matched with cash or in-kind contributions from nonstate sources.

Sec. 9. **LEGACY FUNDING REQUIREMENTS APPLY.**

All appropriations in this article are onetime and are subject to the requirements and availability provisions provided under Laws 2011, First Special Session chapter 6, articles 4 and 5. Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, articles 4 and 5.

Sec. 10. **GOVERNOR TO URGE PRESIDENTIAL PARDON OF CHASKA.**

The governor, in consultation with the chairs of the house and senate committees with jurisdiction over legacy funds, shall urge the President of the United States to pardon We-Chank-Wash-ta-don-pee, also known as Chaska, for alleged crimes stemming from the Dakota Conflict of 1862."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money from the outdoor heritage fund, clean water fund, and arts and cultural heritage fund; modifying requirements for outdoor heritage fund appropriations; providing for public grazing program; changing provisions of grant management; changing control and oversight of the film production jobs program to the commissioner of administration; modifying prior appropriations; amending Minnesota Statutes 2010, sections 16B.98, subdivisions 5, 7; 97A.056, by adding subdivisions; 116U.26; Minnesota

Statutes 2011 Supplement, section 114D.30, subdivision 4; Laws 2009, chapter 172, article 2, section 4, as amended; article 3, section 3; Laws 2011, First Special Session chapter 6, article 1, section 2, subdivision 9; article 2, section 7; article 4, section 2, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 84."

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.

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

H. F. Nos. 383, 2128, 2316, 2341, 2343, 2544, 2614, 2634, 2784 and 2896 were read for the second time.

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

S. F. Nos. 1212, 1599 and 1934 were read for the second time.

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

The following House Files were introduced:

Scott; Benson, M.; Koenen; Abeler and Lohmer introduced:

H. F. No. 2962, A bill for an act relating to marriage; modifying grounds for marriage dissolution; requiring two-year waiting period in certain instances; amending Minnesota Statutes 2010, section 518.06, by adding a subdivision.

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

Franson, Lesch, Knuth, Liebling and Melin introduced:

H. F. No. 2963, A bill for an act relating to employment; prohibiting employers from requiring social network passwords as a condition of employment; amending Minnesota Statutes 2010, section 181.53.

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

Franson introduced:

H. F. No. 2964, A bill for an act relating to early childhood education; prohibiting union dues and fair share fee deductions from early childhood scholarships; amending Laws 2011, First Special Session chapter 11, article 7, section 2, subdivision 8.

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

Lesch; Murphy, E.; Moran; Mahoney; Johnson; Mariani; Hausman and Paymar introduced:

H. F. No. 2965, A bill for an act relating to sports; requiring market rate rent for publicly owned stadiums and sports facilities serving a professional sports franchise; proposing coding for new law in Minnesota Statutes, chapter 473.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Anderson, S., introduced:

H. F. No. 2966, A bill for an act relating to game and fish; making the free deer license for disabled veterans permanent; amending Minnesota Statutes 2010, section 97A.441, subdivision 6.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Holberg introduced:

H. F. No. 2967, A bill for an act relating to state government; updating the equalizing factors and threshold rates to reflect the changed adjusted net tax capacity tax base; updating education and human services appropriations for changes reflected in the February forecast; amending Minnesota Statutes 2010, sections 123B.53, subdivisions 4, 5; 123B.591, subdivision 3; 124D.20, subdivision 5; 124D.22, subdivision 3; 126C.10, subdivisions 13a, 35; 126C.41, subdivision 5; 126C.63, subdivision 8; 126C.69, subdivisions 2, 9; Minnesota Statutes 2011 Supplement, sections 123B.54; 123B.57, subdivision 4; Laws 2011, First Special Session chapter 11, article 1, section 36, subdivisions 2, 3, 4, 5, 6, 7, 10; article 2, section 50, subdivisions 2, 3, 4, 5, 6, 7, 9; article 3, section 11, subdivisions 2, 3, 4, 5; article 4, section 10, subdivisions 2, 3, 4, 6; article 5, section 12, subdivisions 2, 3, 4; article 6, section 2, subdivisions 2, 3, 5; article 7, section 2, subdivisions 2, 3, 4; article 8, section 2, subdivisions 2, 3; article 9, section 3, subdivision 2.

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

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 392, A bill for an act relating to education; modifying provisions relating to school bus safety and standards; amending Minnesota Statutes 2010, sections 169.4501, subdivisions 1, 2; 169.4503, subdivisions 5, 20, by adding subdivisions; repealing Minnesota Statutes 2010, section 169.454, subdivision 10.

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.

CAL R. LUDEMAN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 2376, A bill for an act relating to education finance; simplifying the approval process for food service equipment purchased from the food service fund; amending Minnesota Statutes 2010, section 124D.111, subdivision 3.

CAL R. LUDEMAN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 2738, A bill for an act proposing an amendment to the Minnesota Constitution, article VII, section 1; requiring voters to present photographic identification; providing photographic identification to voters at no charge; requiring substantially equivalent verification standards for all voters; allowing provisional balloting for voters unable to present photographic identification.

CAL R. LUDEMAN, Secretary of the Senate

Kiffmeyer moved that the House refuse to concur in the Senate amendments to H. F. No. 2738, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2738:

Kiffmeyer; Anderson, S.; Benson, M.; Downey and Drazkowski.



**MESSAGES FROM THE SENATE, Continued**

The following messages were received from the Senate:

Mr. Speaker:

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

H. F. No. 545, A bill for an act relating to state government; requiring state budget documents to include federal funding contingency planning; amending Minnesota Statutes 2010, section 16A.10, by adding a subdivision.

CAL R. LUDEMAN, Secretary of the Senate

**CONCURRENCE AND REPASSAGE**

Downey moved that the House concur in the Senate amendments to H. F. No. 545 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 545, A bill for an act relating to state government; requiring state budget documents to include federal contingency planning; amending Minnesota Statutes 2010, section 16A.10, by adding a subdivision.

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

The question was taken on the repassage of the bill and the roll was called. There were 70 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Abeler	Crawford	Gottwalt	Kiel	McNamara	Shimanski
Anderson, B.	Daudt	Gruenhagen	Kiffmeyer	Murdock	Smith
Anderson, D.	Davids	Gunther	Lanning	Murray	Stensrud
Anderson, P.	Dean	Hackbarth	Leidiger	Myhra	Swedzinski
Anderson, S.	Dettmer	Hamilton	LeMieur	Nornes	Torkelson
Banaian	Doepke	Hancock	Lohmer	O'Driscoll	Urdahl
Barrett	Downey	Holberg	Loon	Peppin	Vogel
Beard	Drazkowski	Hoppe	Mack	Petersen, B.	Wardlow
Benson, M.	Erickson	Howes	Mazorol	Quam	Westrom
Bills	Fabian	Kath	McDonald	Runbeck	Woodard
Buesgens	Franson	Kelly	McElfratrick	Schomacker	
Cornish	Garofalo	Kieffer	McFarlane	Scott	

Those who voted in the negative were:

Allen	Carlson	Eken	Greiling	Hornstein	Kahn
Anzelc	Champion	Falk	Hansen	Hortman	Knuth
Atkins	Davnie	Fritz	Hausman	Hosch	Koenen
Benson, J.	Dill	Gauthier	Hilstrom	Huntley	Laine
Brynaert	Dittrich	Greene	Hilty	Johnson	Lenczewski

Lesch	Mariani	Mullery	Paymar	Rukavina	Thissen
Liebling	Marquart	Murphy, E.	Pelowski	Scalze	Tillberry
Lillie	Melin	Murphy, M.	Persell	Simon	Wagenius
Loeffler	Moran	Nelson	Peterson, S.	Slawik	Ward
Mahoney	Morrow	Norton	Poppe	Slocum	Winkler

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

Mr. Speaker:

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

S. F. No. 1567, A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; modifying requirements for water supply plans; modifying terms for certain permits; appropriating money; amending Minnesota Statutes 2010, sections 41A.10, subdivision 1; 84.027, by adding a subdivision; 103G.291, subdivisions 3, 4; 115.03, by adding a subdivision; 116.07, subdivision 4a, by adding a subdivision; 116D.04, by adding a subdivision; 116J.03, by adding subdivisions; 116J.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a; repealing Minnesota Statutes 2010, section 103G.291, subdivision 4.

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

Senators: Ingebrigtsen, Gazelka, Carlson, Pederson and Stumpf.

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

CAL R. LUDEMAN, Secretary of the Senate

Fabian moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 5 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1567. The motion prevailed.

Mr. Speaker:

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

S. F. Nos. 1675, 1750, 2088, 2213 and 2535.

CAL R. LUDEMAN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 1675, A bill for an act relating to human services; modifying provisions related to children and family services; reforming adoptions under guardianship of the commissioner; modifying statutory provisions related to child support, child care, child safety, and MFIP; amending Minnesota Statutes 2010, sections 13.46, subdivision 2;

13.461, subdivision 17; 13.465, by adding a subdivision; 119B.09, subdivision 7; 119B.12, subdivisions 1, 2; 119B.125, subdivisions 1a, 2, 6; 119B.13, subdivision 6; 145.902, subdivisions 1, 3; 256.998, subdivisions 1, 5; 256J.08, subdivision 11; 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.621; 256J.68, subdivision 7; 256J.95, subdivision 3; 257.01; 257.75, subdivision 7; 259.22, subdivision 2; 259.23, subdivision 1; 259.24, subdivisions 1, 3, 5, 6a, 7; 259.29, subdivision 2; 259.69; 259.73; 260.012; 260C.001; 260C.007, subdivision 4, by adding subdivisions; 260C.101, subdivision 2; 260C.150, subdivision 1; 260C.157, subdivision 1; 260C.163, subdivisions 1, 4; 260C.178, subdivisions 1, 7; 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2, 10, 11a; 260C.212, subdivisions 1, 2, 5, 7; 260C.215, subdivisions 4, 6; 260C.217; 260C.301, subdivisions 1, 8; 260C.317, subdivisions 3, 4; 260C.325, subdivisions 1, 3, 4; 260C.328; 260C.451; 260D.08; 518C.205; 541.04; 548.09, subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i, 10k, 11; Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1; 256.01, subdivision 14b; proposing coding for new law in Minnesota Statutes, chapters 260C; 611; proposing coding for new law as Minnesota Statutes, chapter 259A; repealing Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201, subdivision 11; 260C.215, subdivision 2; 260C.456; Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102.

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

S. F. No. 1750, A bill for an act relating to natural resources; modifying Heartland Trail; providing for expedited exchanges of certain lands; adding to and deleting from state parks, state recreation areas, and state forests; authorizing public and private sale of certain state lands; modifying certain easements; modifying certain lease provisions; modifying Mississippi River management plan; amending Minnesota Statutes 2010, sections 84.631; 85.015, subdivision 12; 92.50, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 92.

The bill was read for the first time.

Hancock moved that S. F. No. 1750 and H. F. No. 2214, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2088, A bill for an act relating to education; changing by one month the date by which a school board must notify a probationary teacher about not renewing the teacher's contract; amending Minnesota Statutes 2011 Supplement, section 122A.40, subdivision 5.

The bill was read for the first time.

Kiel moved that S. F. No. 2088 and H. F. No. 2530, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2213, A bill for an act relating to education; modifying certain principal evaluation provisions; amending Minnesota Statutes 2011 Supplement, section 123B.147, subdivision 3.

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

S. F. No. 2535, A bill for an act relating to education; modifying certain Board of School Administrators provisions; amending Minnesota Statutes 2010, section 122A.14, subdivisions 2, 9.

The bill was read for the first time.

Erickson moved that S. F. No. 2535 and H. F. No. 2759, now on the General Register, 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. 382

A bill for an act relating to commerce; amending statutes regarding receiverships, assignments for the benefit of creditors, and nonprofit corporations; amending Minnesota Statutes 2010, sections 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 462A.05, subdivision 32; 469.012, subdivision 2i; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

March 23, 2012

The Honorable Kurt Zellers  
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach  
President of the Senate

We, the undersigned conferees for H. F. No. 382 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. 382 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
RECEIVERSHIPS

Section 1. **[576.21] DEFINITIONS.**

(a) The definitions in this section apply throughout this chapter unless the context requires otherwise.

(b) "Court" means the district court in which the receivership is pending unless the context requires otherwise.

(c) "Entity" means a person other than a natural person.

(d) "Executory contract" means a contract, including a lease, where the obligations of both the respondent and the other party to the contract are unperformed to the extent that the failure of either party to complete performance of its obligations would constitute a material breach of the contract, thereby excusing the other party's performance of its obligations under the contract.

(e) "Foreign receiver" means a receiver appointed in any foreign jurisdiction.

(f) "Foreign jurisdiction" means any state or federal jurisdiction other than that of this state.

(g) "General receiver" means the receiver appointed in a general receivership.

(h) "General receivership" means a receivership over all or substantially all of the nonexempt property of a respondent for the purpose of liquidation and distribution to creditors and other parties in interest, including, without limitation, a receivership resulting from the appointment of a receiver pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836.

(i) "Lien" means a charge against or interest in property to secure payment of a debt or the performance of an obligation, including any mortgage or security interest.

(j) "Limited receiver" means the receiver appointed in a limited receivership.

(k) "Limited receivership" means a receivership other than a general receivership.

(l) "Party" means a person who is a party within the meaning of the Minnesota Rules of Civil Procedure in the action in which a receiver is appointed.

(m) "Party in interest" includes the respondent, any equity security holder in the respondent, any person with an ownership interest in or lien on receivership property, and, in a general receivership, any creditor of the respondent.

(n) "Person" has the meaning given it in section 645.44 and shall include limited liability companies, limited liability partnerships, and other entities recognized under the laws of this state.

(o) "Property" means all of respondent's right, title, and interest, both legal and equitable, in real and personal property, regardless of the manner by which any of the same were or are acquired. Property includes, but is not limited to, any proceeds, products, offspring, rents, or profits of or from the property. Property does not include: (1) any power that the respondent may exercise solely for the benefit of another person, or (2) property impressed with a trust except to the extent that the respondent has a residual interest.

(p) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or order of the court, dispose of receivership property.

(q) "Receivership" means the case in which the receiver is appointed, and, as the context requires, the proceeding in which the receiver takes possession of, manages, or disposes of the respondent's property.

(r) "Receivership property" means (1) in the case of a general receivership, all or substantially all of the nonexempt property of the respondent, or (2) in the case of a limited receivership, that property of the respondent identified in the order appointing the receiver, or in any subsequent order.

(s) "Respondent" means the person over whose property the receiver is appointed.

(t) "State agent" and "state agency" means any office, department, division, bureau, board, commission, or other agency of the state of Minnesota or of any subdivision thereof, or any individual acting in an official capacity on behalf of any state agent or state agency.

(u) "Time of appointment" means the date and time specified in the first order of appointment of a receiver or, if the date and time are not specified in the order of appointment, the date and time that the court ruled on the motion for the appointment of a receiver. Time of appointment does not mean any subsequent date or time, including the execution of a written order, the filing or docketing of a written order, or the posting of a bond.

(v) "Utility" means a person providing any service regulated by the Public Utilities Commission.

Sec. 2. **[576.22] APPLICABILITY OF CHAPTER AND OF COMMON LAW.**

(a) This chapter applies to receiverships provided for in section 576.25, subdivisions 2 to 6, and to receiverships:

(1) pursuant to section 193.147, in connection with a mortgage on an armory;

(2) pursuant to section 223.17, subdivision 8, paragraph (b), in connection with a defaulting grain buyer;

(3) pursuant to section 232.22, subdivision 7, paragraph (c), in connection with a defaulting public grain warehouse;

(4) pursuant to section 296A.22, in connection with nonpayment of tax;

(5) pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, in an action relating to the dissolution of an entity and relating to, in like cases, property within the state of foreign entities;

(6) pursuant to section 321.0703, in connection with the rights of a creditor of a partner or transferee;

(7) pursuant to section 322.22, in connection with the rights of creditors of limited partners;

(8) pursuant to section 323A.0504, in connection with a partner's transferable interest;

(9) pursuant to section 453.55, in connection with bonds and notes;

(10) pursuant to section 453A.05, in connection with bonds and notes;

(11) pursuant to section 513.47, in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(12) pursuant to section 514.06, in connection with the severance of a building and resale;

(13) pursuant to section 515.23, in connection with an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(14) pursuant to section 518A.71, in connection with the failure to pay, or to provide security for, maintenance or support payments;

(15) pursuant to section 559.17, in connection with assignments of rents; however, any receiver appointed under section 559.17 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with section 559.17;

(16) pursuant to section 571.84, in connection with a garnishee in possession of property subject to a garnishment proceeding;

(17) pursuant to section 575.05, in connection with property applied to judgment;

(18) pursuant to section 575.06, in connection with adverse claimants;

(19) pursuant to sections 582.05 to 582.10, in connection with mortgage foreclosures; however, any receiver appointed under sections 582.05 to 582.10 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with sections 582.05 to 582.10;

(20) pursuant to section 609.904, in connection with criminal penalties; or

(21) pursuant to section 609.907, in connection with preservation of property subject to forfeiture.

(b) This chapter does not apply to any receivership in which the receiver is a state agency or in which the receiver is appointed, controlled, or regulated by a state agency unless otherwise provided by law.

(c) In receiverships not specifically referenced in paragraph (a) or (b), the court, in its discretion, may apply provisions of this chapter to the extent not inconsistent with the statutes establishing the receiverships.

(d) Unless explicitly displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter.

### Sec. 3. **[576.23] POWERS OF THE COURT.**

The court has the exclusive authority to direct the receiver and the authority over all receivership property wherever located including, without limitation, authority to determine all controversies relating to the collection, preservation, improvement, disposition, and distribution of receivership property, and all matters otherwise arising in or relating to the receivership, the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

### Sec. 4. **[576.24] TYPES OF RECEIVERSHIPS.**

A receivership may be either a limited receivership or a general receivership. Any receivership which is based upon the enforcement of an assignment of rents or leases, or the foreclosure of a mortgage lien, judgment lien, mechanic's lien, or other lien pursuant to which the respondent or any holder of a lien would have a statutory right of redemption, shall be a limited receivership. If the order appointing the receiver does not specify whether the receivership is a limited receivership or a general receivership, the receivership shall be a limited receivership unless and until the court by later order designates the receivership as a general receivership, notwithstanding that pursuant to section 576.25, subdivision 8, a receiver may have control over all the property of the respondent. At any time, the court may order a general receivership to be converted to a limited receivership and a limited receivership to be converted to a general receivership.

### Sec. 5. **[576.25] APPOINTMENT OF RECEIVERS; RECEIVERSHIP NOT A TRUST.**

Subdivision 1. **No necessity of separate action.** A receiver may be appointed under this chapter whether or not the motion for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment.

Subd. 2. **Before judgment.** Except where judgment for failure to answer may be had without application to the court, a limited receiver may be appointed before judgment to protect any party to an action who demonstrates an apparent right to property that is the subject of the action and is in the possession of an adverse party, and that the property or its rents and profits are in danger of loss or material impairment.

Subd. 3. **In a judgment or after judgment.** A limited or general receiver may be appointed in a judgment or after judgment to carry the judgment into effect, to preserve property pending an appeal, or when an execution has been returned unsatisfied and the judgment debtor refuses to apply the property in satisfaction of the judgment.

Subd. 4. **Entities.** In addition to those situations specifically provided for in statute, a limited or general receiver may be appointed when a corporation or other entity is dissolved, insolvent, in imminent danger of insolvency, or has forfeited its corporate rights and in like cases of the property within the state of foreign corporations and other entities.

Subd. 5. **Appointment of receiver of mortgaged property.** (a) A limited receiver shall be appointed at any time after the commencement of mortgage foreclosure proceedings under chapter 580 or 581 and before the end of the period for redemption, if the mortgage being foreclosed:

(1) secures an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(2) is not a lien upon property that was entirely homesteaded, residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or agricultural property.

The foreclosing mortgagee or the purchaser at foreclosure sale may at any time bring an action in the district court of the county in which the mortgaged property or any part thereof is located for the appointment of a receiver; provided, however, if the foreclosure is by action under chapter 581, a separate action need not be filed.

(b) The court shall appoint a receiver upon a showing that the mortgagor has breached a covenant contained in the mortgage relating to any of the following:

(1) application of tenant security deposits as required by section 504B.178;

(2) payment when due of prior or current real estate taxes or special assessments with respect to the mortgaged property or the periodic escrow for the payment of the taxes or special assessments;

(3) payment when due of premiums for insurance of the type required by the mortgage or the periodic escrow for the payment of the premiums; or

(4) keeping of the covenants required of a landlord or licensor pursuant to section 504B.161, subdivision 1.

(c) The receiver shall be or shall retain an experienced property manager.

(d) The receiver shall collect the rents, profits, and all other income of any kind. The receiver, after providing for payment of its reasonable fees and expenses, shall, to the extent possible and in the order determined by the receiver to preserve the value of the mortgaged property:

(1) manage the mortgaged property so as to prevent waste;

(2) execute contracts and leases within the period of the receivership, or beyond the period of the receivership if approved by the court;

(3) pay the expenses listed in paragraph (b), clauses (1) to (3);

(4) pay all expenses for normal maintenance of the mortgaged property; and

(5) perform the terms of any assignment of rents that complies with section 559.17, subdivision 2.

(e) The purchaser at a foreclosure sale shall have the right, at any time and without limitation as provided in section 582.03, to advance money to the receiver to pay any or all of the expenses that the receiver should otherwise pay if cash were available from the mortgaged property. Sums so advanced, with interest, shall be a part of the sum required to be paid to redeem from the sale. The sums shall be proved by the affidavit of the purchaser, an agent, or attorney, stating the expenses and describing the mortgaged property. The affidavit shall be furnished to the sheriff in the manner of expenses claimed under section 582.03.



(f) Any sums collected that remain in the possession of the receiver at the termination of the receivership shall, in the event the termination of the receivership is due to the reinstatement of the mortgage debt or redemption of the mortgaged property by the mortgagor, be paid to the mortgagor; and in the event termination of the receivership occurs at the end of the period of redemption without redemption by the mortgagor or any other party entitled to redeem, interest accrued upon the sale price pursuant to section 580.23 or 581.10 shall be paid to the purchaser at the foreclosure sale. Any net sum remaining shall be paid to the mortgagor, except if the receiver was enforcing an assignment of rents that complies with section 559.17, subdivision 2, in which case any net sum remaining shall be paid pursuant to the terms of the assignment.

(g) This subdivision applies to all mortgages executed on or after August 1, 1977, and to amendments or modifications thereto, and to amendments or modifications made on or after August 1, 1977, to mortgages executed before August 1, 1977, if the amendment or modification is duly recorded and is for the principle purpose of curing a default.

Subd. 6. **Other cases.** A receiver may be appointed in other cases as are provided by law, or in accord with existing practice, except as otherwise prescribed.

Subd. 7. **Motion for appointment of receiver.** The court may appoint a receiver upon a motion with notice to the respondent, to all other parties in the action, and to parties in interest and other persons as the court may require. Notice shall also be given to any judgment creditor who is seeking the appointment of a receiver in any other action. A motion to appoint a general receiver shall be treated as a dispositive motion. The court may appoint a receiver ex parte or on shortened notice on a temporary basis if it is clearly shown that an emergency exists requiring the immediate appointment of a receiver. In that event, the court shall set a hearing as soon as practicable and at the subsequent hearing, the burdens of proof shall be as would be applicable to a motion made on notice that is not expedited.

Subd. 8. **Description of receivership property.** The order appointing the receiver or subsequent order shall describe the receivership property with particularity appropriate to the circumstances. If the order does not so describe the receivership property, until further order of the court, the receiver shall have control over all of the respondent's nonexempt property.

Subd. 9. **Receivership not a trust.** The order appointing the receiver does not create a trust.

Sec. 6. **[576.26] ELIGIBILITY OF RECEIVER.**

Subdivision 1. **Who may serve as receiver.** Unless otherwise prohibited by law or prior order, any person, whether or not a resident of this state, may serve as a receiver, provided that the court, in its order appointing the receiver, makes written conclusions based in the record that the person proposed as receiver:

(1) is qualified to serve as receiver and as an officer of the court; and

(2) is independent as to the parties and the underlying dispute.

Subd. 2. **Considerations regarding qualifications.** (a) In determining whether a proposed receiver is qualified to serve as receiver and as an officer of the court, the court shall consider any relevant information, including, but not limited to, whether:

(1) the proposed receiver has knowledge and experience sufficient to perform the duties of receiver;

(2) the proposed receiver has the financial ability to post the bond required by section 576.07;

(3) the proposed receiver or any insider of the proposed receiver has been previously disqualified from serving as receiver and the reasons for disqualification;

(4) the proposed receiver or any insider of the proposed receiver has been convicted of a felony or other crime involving moral turpitude; and

(5) the proposed receiver or any insider of the proposed receiver has been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct.

(b) For the purposes of this subdivision, "insider" includes:

(1) if the proposed receiver is a corporation, an officer or director of the corporation, or a person in control of the proposed receiver; and

(2) if the proposed receiver is a partnership, a general or limited partner of the partnership, or a person in control of the proposed receiver.

**Subd. 3. Considerations regarding independence.** (a) In determining whether a proposed receiver is independent as to the parties and the underlying dispute, the court shall consider any relevant information, including, but not limited to:

(1) the nature and extent of any relationship that the proposed receiver has to the parties and the property proposed as receivership property including, without limitation, whether the proposed receiver is a party to the action, a family member of a party to the action, or an officer, director, member, employee, or owner of or controls a party to the action;

(2) whether the proposed receiver has any interest materially adverse to the interests of any of the parties to the action;

(3) whether the proposed receiver has any material financial or pecuniary interest, other than receiver compensation allowed by court order, in the outcome of the underlying dispute, including any proposed contingent or success fee compensation arrangement; and

(4) whether the proposed receiver is a debtor, secured or unsecured creditor, lienor of, or holder of any equity interest in, any of the parties to the action of the receivership property.

(b) In evaluating all information, the court may exercise its discretion and need not consider any single item of information to be determinative of independence. Without limiting the generality of the preceding sentence, the proposed receiver shall not be disqualified solely because the proposed receiver was appointed receiver in other unrelated matters involving any of the parties to the matter in which the appointment is sought, or the proposed receiver has been engaged by any of the parties to the action in matters unrelated to the underlying action.

**Subd. 4. Information provided to court.** The proposed receiver, the parties, and prospective parties in interest may provide any information relevant to the qualifications, independence, and the selection of the receiver.

**Sec. 7. [576.27] BOND.**

After appointment, a receiver shall give a bond in the sum, nature, and with the conditions that the court shall order in its discretion consistent with section 574.11. Unless otherwise ordered by the court, the receiver's bond shall be conditioned on the receiver's faithful discharge of its duties in accordance with the orders of the court and the laws of this state. The receiver shall execute a bond with a surety authorized to write bonds in the state.

Sec. 8. **[576.28] IMMUNITY; DISCOVERY FROM RECEIVER.**

(a) The receiver shall be entitled to all defenses and immunities provided at common law for acts or omissions within the scope of the receiver's appointment.

(b) No person other than a successor receiver duly appointed by the court shall have a right of action against a receiver to recover receivership property or the value thereof.

(c) A party or party in interest may conduct discovery of the receiver concerning any matter relating to the receiver's administration of the receivership property after obtaining an order authorizing the discovery.

Sec. 9. **[576.29] POWERS AND DUTIES OF RECEIVERS; GENERALLY.**

Subdivision 1. **Powers.** (a) A receiver, whether general or limited, shall have the following powers in addition to those specifically conferred by this chapter or otherwise by statute, rule, or order of the court:

(1) the power to collect, control, manage, conserve, and protect receivership property;

(2) the power to incur and pay expenses incidental to the receiver's exercise of the powers or otherwise in the performance of the receiver's duties;

(3) the power to assert rights, claims, causes of action, or defenses that relate to receivership property; and

(4) the power to seek and obtain instruction from the court with respect to any matter relating to the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

(b) In addition to the powers provided in paragraph (a), a general receiver shall have the power:

(1) to (i) assert any rights, claims, causes of action, or defenses of the respondent to the extent any rights, claims, causes of action, or defenses are receivership property; (ii) maintain in the receiver's name or in the name of the respondent any action to enforce any right, claim, cause of action, or defense; and (iii) intervene in actions in which the respondent is a party for the purpose of exercising the powers under this clause or requesting transfer of venue of the action to the court;

(2) to pursue any claim or remedy that may be asserted by a creditor of the respondent under sections 513.41 to 513.51;

(3) to compel any person, including the respondent, and any party, by subpoena pursuant to Rule 45 of the Minnesota Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things with respect to receivership property or any other matter that may affect the administration of the receivership;

(4) to operate any business constituting receivership property in the ordinary course of the business, including the use, sale, or lease of property of the business or otherwise constituting receivership property, and the incurring and payment of expenses of the business or other receivership property;

(5) if authorized by an order of the court following notice and a hearing, to use, improve, sell, or lease receivership property other than in the ordinary course of business; and

(6) if appointed pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, to exercise all of the powers and authority provided by the section or order of the court.

Subd. 2. **Duties.** A receiver, whether general or limited, shall have the duties specifically conferred by this chapter or otherwise by statute, rule, or order of the court.

Subd. 3. **Modification of powers and duties.** Except as otherwise provided in this chapter, the court may modify the powers and duties of a receiver provided by this section.

**Sec. 10. [576.30] RECEIVER AS LIEN CREDITOR; REAL ESTATE RECORDING; SUBSEQUENT SALES OF REAL ESTATE.**

Subdivision 1. **Receiver as lien creditor.** As of the time of appointment, the receiver shall have the powers and priority as if it were a creditor that obtained a judicial lien at the time of appointment pursuant to sections 548.09 and 550.10 on all of the receivership property, subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate recording.** If any interest in real estate is included in the receivership property, a notice of lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the receiver as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the appointment under section 507.34.

Subd. 3. **Subsequent sales of real estate.** The notice of lis pendens, a court order authorizing the receiver to sell real property certified by the court administrator, and a deed executed by the receiver recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the receiver shall be prima facie evidence of the authority of the receiver to sell and convey the real property described in the deed. The court may also require a motion for an order for sale of the real property or a motion for an order confirming sale of the real property.

**Sec. 11. [576.31] DUTIES OF RESPONDENT.**

The respondent shall:

(1) assist and cooperate fully with the receiver in the administration of the receivership and the receivership property and the discharge of the receiver's duties, and comply with all orders of the court;

(2) immediately upon the receiver's appointment, deliver to the receiver all of the receivership property in the respondent's possession, custody, or control, including, but not limited to, all books and records, electronic data, passwords, access codes, statements of accounts, deeds, titles or other evidence of ownership, financial statements, and all other papers and documents related to the receivership property;

(3) supply to the receiver information as requested relating to the administration of the receivership and the receivership property, including information necessary to complete any reports or other documents that the receiver may be required to file; and

(4) remain responsible for the filing of all tax returns, including those returns applicable to periods which include those in which the receivership is in effect.

**Sec. 12. [576.32] EMPLOYMENT AND COMPENSATION OF PROFESSIONALS.**

Subdivision 1. **Employment.** (a) To represent or assist the receiver in carrying out the receiver's duties, the receiver may employ attorneys, accountants, appraisers, auctioneers, and other professionals that do not hold or represent an interest adverse to the receivership.

(b) This section does not require prior court approval for the retention of professionals. However, any professional to be retained shall provide the receiver with a disclosure of any potential conflicts of interest, and the professional or the receiver shall file with the court a notice of the retention and of the proposed compensation. Any party in interest may bring a motion for disapproval of any retention within 21 days after the filing of the notice of retention.

(c) A person is not disqualified for employment under this section solely because of the person's employment by, representation of, or other relationship with the receiver, respondent, a creditor, or other party in interest if the court determines that the employment is appropriate.

Subd. 2. **Compensation.** (a) The receiver and any professional retained by the receiver shall be paid by the receiver from the receivership property in the same manner as other expenses of administration and without separate orders, but subject to the procedures, safeguards, and reporting that the court may order.

(b) Except to the extent fees and expenses have been approved by the court, or as to parties in interest who are deemed to have waived the right to object, any interim payments of fees and expenses to the receiver are subject to approval in connection with the receiver's final report pursuant to section 576.38.

Sec. 13. **[576.33] SCHEDULES OF PROPERTY AND CLAIMS.**

(a) The court may order the respondent or a general receiver to file under oath to the best of its actual knowledge:

(1) a schedule of all receivership property and exempt property of the respondent, describing, as of the time of appointment: (i) the location of the property and, if real property, a legal description thereof; (ii) a description of all liens to which the property is subject; and (iii) an estimated value of the property; and

(2) a schedule of all creditors and taxing authorities and regulatory authorities which supervise the respondent, their mailing addresses, the amount and nature of their claims, whether the claims are secured by liens of any kind, and whether the claims are disputed.

(b) The court may order inventories and appraisals if appropriate to the receivership.

Sec. 14. **[576.34] NOTICE.**

In a general receivership, unless the court orders otherwise, the receiver shall give notice of the receivership to all creditors and other parties in interest actually known to the receiver by mail or other means of transmission within 21 days after the time of appointment. The notice of the receivership shall include the time of appointment and the names and addresses of the respondent, the receiver, and the receiver's attorney, if any.

Sec. 15. **[576.35] NOTICES, MOTIONS, AND ORDERS.**

Subdivision 1. **Notice of appearance.** Any party in interest may make an appearance in a receivership by filing a written notice of appearance, including the name, mailing address, fax number, e-mail address, if any, and telephone number of the party in interest and its attorney, if any, and by serving a copy on the receiver and the receiver's attorney, if any. It is not necessary for a party in interest to be joined as a party to be heard in the receivership. A proof of claim does not constitute a written notice of appearance.

Subd. 2. **Master service list.** From time to time the receiver shall file an updated master service list consisting of the names, mailing addresses, and, where available, fax numbers and e-mail addresses of the respondent, the receiver, all persons joined as parties in the receivership, all persons known by the receiver to have asserted any ownership or lien in receivership property, all persons who have filed a notice of appearance in accordance with this section, and their attorneys, if any.

Subd. 3. **Motions.** Except as otherwise provided in this chapter, an order shall be sought by a motion brought in compliance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts.

Subd. 4. **Persons served.** Except as otherwise provided in this chapter, a motion shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on all persons on the master service list, all persons who have asserted an ownership interest or lien in receivership property that is the subject of the motion, all persons who are identified in the motion as directly affected by the relief requested, and other persons as the court may direct.

Subd. 5. **Service on state agency.** Any request for relief against a state agency shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on the specific state agency and on the Office of the Attorney General.

Subd. 6. **Order without hearing.** Where a provision in this chapter, an order issued in the receivership, or a court rule requires an objection or other response to a motion or application within a specific time, and no objection or other response is interposed, the court may grant the relief requested without a hearing.

Subd. 7. **Order upon application.** Where a provision of this chapter permits, as to administrative matters, or where it otherwise appears that no party in interest would be materially prejudiced, the court may issue an order ex parte or based on an application without a motion, notice, or hearing.

Subd. 8. **Persons bound by orders of the court.** Except as to persons entitled to be served pursuant to subdivision 4 and who were not served, an order of the court binds parties in interest and all persons who file notices of appearance, submit proofs of claim, receive written notice of the receivership, receive notice of any motion in the receivership, or who have actual knowledge of the receivership whether they are joined as parties or received notice of the specific motion or order.

Sec. 16. **[576.36] RECORDS; INTERIM REPORTS.**

Subdivision 1. **Preparation and retention of records.** The receiver shall prepare and retain appropriate business records, including records of all cash receipts and disbursements and of all receipts and distributions or other dispositions of receivership property. After due consideration of issues of confidentiality, the records may be provided by the receiver to parties in interest or shall be provided as ordered by the court.

Subd. 2. **Interim reports.** (a) The court may order the receiver to prepare and file interim reports addressing:

(1) the activities of the receiver since the last report;

(2) cash receipts and disbursements, including payments made to professionals retained by the receiver;

(3) receipts and dispositions of receivership property; and

(4) other matters.

(b) The order may provide for the delivery of the receiver's interim reports to persons on the master service list and to other persons and may provide a procedure for objection to the interim reports, and may also provide that the failure to object constitutes a waiver of objection to matters addressed in the interim reports.

Sec. 17. **[576.37] REMOVAL OF RECEIVERS.**

Subdivision 1. **Removal of receiver.** The court may remove the receiver if: (1) the receiver fails to execute and file the bond required by section 576.27; (2) the receiver resigns, refuses, or fails to serve for any reason; or (3) for other good cause.

Subd. 2. **Successor receiver.** Upon removal of the receiver, if the court determines that further administration of the receivership is required, the court shall appoint a successor receiver. Upon executing and filing a bond under section 576.27, the successor receiver shall immediately succeed the receiver so removed and shall assume the duties of receiver.

Subd. 3. **Report and discharge of removed receiver.** Within 14 days after removal, the receiver so removed shall file with the court and serve a report pursuant to section 576.38, subdivision 3, for matters up to the date of the removal. Upon approval of the report, the court may enter an order pursuant to section 576.38 discharging the removed receiver.

Sec. 18. **[576.38] TERMINATION OF RECEIVERSHIPS; FINAL REPORT.**

Subdivision 1. **Termination of receivership.** The court may discharge a receiver and terminate the receivership. If the court determines that the appointment of the receiver was procured in bad faith, the court may assess against the person who procured the receiver's appointment:

(1) all of the receiver's fees and expenses and other costs of the receivership; and

(2) any other sanctions the court deems appropriate.

Subd. 2. **Request for discharge.** Upon distribution or disposition of all receivership property, or the completion of the receiver's duties, the receiver shall file a final report and shall request that the court approve the final report and discharge the receiver.

Subd. 3. **Contents of final report.** The final report, which may incorporate by reference interim reports, shall include, in addition to any matters required by the court in the case:

(1) a description of the activities of the receiver in the conduct of the receivership;

(2) a schedule of all receivership property at the commencement of the receivership and any receivership property added thereafter;

(3) a list of expenditures, including all payments to professionals retained by the receiver;

(4) a list of any unpaid expenses incurred during the receivership;

(5) a list of all dispositions of receivership property;

(6) a list of all distributions made or proposed to be made; and

(7) if not done separately, a motion or application for approval of the payment of fees and expenses of the receiver.

Subd. 4. **Notice of final report.** The receiver shall give notice of the filing of the final report and request for discharge to all persons who have filed notices of appearance. If there is no objection within 21 days, the court may enter an order approving the final report and discharging the receiver without the necessity of a hearing.

Subd. 5. **Effect of discharge.** A discharge removes all authority of the receiver, excuses the receiver from further performance of any duties, and discharges any lis pendens recorded by the receiver.

Sec. 19. **[576.39] ACTIONS BY OR AGAINST RECEIVER OR RELATING TO RECEIVERSHIP PROPERTY.**

Subdivision 1. **Actions by or against receiver.** The receiver may sue in the receiver's capacity and, subject to other sections of this chapter and all immunities provided at common law, may be sued in that capacity.

Subd. 2. **Venue.** Unless applicable law requires otherwise or the court orders otherwise, an action by or against the receiver or relating to the receivership or receivership property shall be commenced in the court and assigned to the judge before whom the receivership is pending.

Subd. 3. **Joinder.** Subject to section 576.42, a limited or general receiver may be joined or substituted as a party in any action or other proceeding that relates to receivership property that was pending at the time of appointment. Subject to other sections of this chapter, a general receiver may be joined or substituted as a party in any action or other proceeding that was pending at the time of appointment in which the respondent is a party. Pending actions may be transferred to the court upon the receiver's motion for change of venue made in the court in which the action is pending.

Subd. 4. **Effect of judgments.** A judgment entered subsequent to the time of appointment against a receiver or the respondent shall not constitute a lien on receivership property, nor shall any execution issue thereon. Upon submission of a certified copy of the judgment in accordance with section 576.49, the amount of the judgment shall be treated as an allowed claim in a general receivership. A judgment against a limited receiver shall have the same effect as a judgment against the respondent, except that the judgment shall be enforceable against receivership property only to the extent ordered by the court.

Sec. 20. **[576.40] TURNOVER OF PROPERTY.**

Subdivision 1. **Demand by receiver.** Except as expressly provided in this section, and unless otherwise ordered by the court, upon demand by a receiver, any person shall turn over any receivership property that is within the possession or control of that person. Unless ordered by the court, a person in possession of receivership property pursuant to a valid lien perfected prior to the time of appointment is not required to turn over receivership property.

Subd. 2. **Motion by receiver.** A receiver may seek to compel turnover of receivership property by motion in the receivership. If there exists a bona fide dispute with respect to the existence or nature of the receiver's or the respondent's interest in the property, turnover shall be sought by means of an action under section 576.39. In the absence of a bona fide dispute with respect to the receiver's or the respondent's right to possession of receivership property, the failure to relinquish possession and control to the receiver may be punishable as contempt of the court.

Sec. 21. **[576.41] ANCILLARY RECEIVERSHIPS.**

Subdivision 1. **Ancillary receiverships in foreign jurisdictions.** A receiver appointed by a court of this state may, without first seeking approval of the court, apply in any foreign jurisdiction for appointment as receiver with respect to any receivership property which is located within the foreign jurisdiction.



Subd. 2. **Ancillary receiverships in the courts of this state.** (a) A foreign receiver may obtain appointment by a court of this state as a receiver in an ancillary receivership with respect to any property located in or subject to the jurisdiction of the court if (1) the foreign receiver would be eligible to serve as receiver under section 576.26, and (2) the appointment is in furtherance of the foreign receiver's possession, control, or disposition of property subject to the foreign receivership and in accordance with orders of the foreign jurisdiction.

(b) The courts of this state may enter any order necessary to effectuate orders entered by the foreign jurisdiction's receivership proceeding. Unless the court orders otherwise, a receiver appointed in an ancillary receivership in this state shall have the powers and duties of a limited receiver as set forth in this chapter and shall otherwise comply with the provisions of this chapter applicable to limited receivers.

Sec. 22. **[576.42] STAYS.**

Subdivision 1. **Control of property.** All receivership property is under the control and supervision of the court appointing the receiver.

Subd. 2. **Stay by court order.** In addition to any stay provided in this section, the court may order a stay or stays to protect receivership property and to facilitate the administration of the receivership.

Subd. 3. **Stay in all receiverships.** Except as otherwise ordered by the court, the entry of an order appointing a receiver shall operate as a stay, applicable to all persons, of:

(1) any act to obtain possession of receivership property, or to interfere with or exercise control over receivership property, other than the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property; and

(2) any act to create or perfect any lien against receivership property, except by exercise of a right of setoff, to the extent that the lien secures a claim that arose before the time of appointment.

Subd. 4. **Limited additional stay in general receiverships.** (a) Except as otherwise ordered by the court, in addition to the stay provided in subdivision 3, the entry of an order appointing a general receiver shall operate as a stay, applicable to all persons, of:

(1) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, against the respondent or the receiver that was or could have been commenced before the time of appointment, or to recover a claim against the respondent that arose before the time of appointment;

(2) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property.

(b) As to the acts specified in this subdivision, the stay shall expire 30 days after the time of appointment unless, before the expiration of the 30-day period, the receiver or other party in interest files a motion seeking an order of the court extending the stay and before the expiration of an additional 30 days following the 30-day period, the court orders the stay extended.

Subd. 5. **Modification of stay.** The court may modify any stay provided in this section upon the motion of any party in interest affected by the stay.

Subd. 6. **Inapplicability of stay.** The entry of an order appointing a receiver does not operate as a stay of:

(1) the commencement or continuation of a criminal proceeding against the respondent;

(2) the commencement or continuation of an action or proceeding by a governmental unit to enforce its police or regulatory power;

(3) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the respondent;

(4) the establishment by a governmental unit of any tax liability and any appeal thereof;

(5) the commencement or continuation of an action or proceeding to establish paternity; to establish or modify an order for alimony, maintenance, or support; or to collect alimony, maintenance, or support under any order of a court;

(6) the exercise of a right of setoff;

(7) any act to maintain or continue the perfection of a lien on, or otherwise preserve or protect rights in, receivership property, but only to the extent that the act was necessary to preserve or protect the lien or other rights as they existed as of the time of the appointment. If the act would require seizure of receivership property or commencement of an action prohibited by a stay, the continued perfection shall instead be accomplished by filing a notice in the court before which the receivership is pending and by serving the notice upon the receiver and receiver's attorney, if any, within the time fixed by law for seizure or commencement of the action;

(8) the commencement of a bankruptcy case under federal bankruptcy laws; or

(9) any other exception as provided in United States Code, title 11, section 326(b), as to the automatic stay in federal bankruptcy cases to the extent not inconsistent with any provision in this section.

Sec. 23. **[576.43] UTILITY SERVICE.**

A utility providing service to receivership property that has received written notice from the receiver of the appointment of the receiver may not alter, refuse, or discontinue service to the receivership property without first giving the receiver written notice of any receivership default in compliance with the utility's approved tariffs. After written notice to the utility and a hearing satisfactory to the court, the court may prohibit the alteration, refusal, or discontinuance of utility service if the receiver furnishes adequate assurance of payment for service to be provided after the time of appointment.

Sec. 24. **[576.44] RECEIVERSHIP FINANCING.**

(a) Without necessity of a court order, the receiver may obtain unsecured credit and incur unsecured debt on behalf of the receivership, and the amounts shall be allowable as expenses of the receivership under section 576.51, subdivision 1, clause (2).

(b) Without necessity of a court order, the receiver may obtain secured financing on behalf of the receivership from any secured party under a financing facility existing at the time of the appointment.

(c) The court may authorize the receiver to obtain credit or incur indebtedness, and the court may authorize the receiver to mortgage, pledge, hypothecate, or otherwise encumber receivership property as security for repayment of any indebtedness.

Sec. 25. **[576.45] EXECUTORY CONTRACTS.**

Subdivision 1. Performance by receiver. Unless a court orders otherwise, a receiver succeeds to all of the rights and duties of the respondent under any executory contract. The court may condition the continued performance by the receiver on terms that are appropriate under the circumstances. Performance of an executory contract shall create a claim against the receivership to the extent of the value of the performance received by the receivership after the time of appointment. The claim shall not constitute a personal obligation of the receiver.

Subd. 2. Assignment and delegation by receiver. For good cause, the court may authorize a receiver to assign and delegate an executory contract to a third party under the same circumstances and under the same conditions as the respondent was permitted to do so pursuant to the terms of the executory contract and applicable law immediately before the time of appointment.

Subd. 3. Termination by receiver. For good cause, the court may authorize the receiver to terminate an executory contract. The receiver's right to possess or use property pursuant to the executory contract shall terminate at the termination of the executory contract. Except as to the claim against the receivership under subdivision 1, the termination shall create a claim equal to the damages, if any, for a breach of contract as if the breach of contract had occurred immediately before the time of appointment. Any claim arising under this section for termination of an executory contract shall be presented or filed in the same manner as other claims in the receivership no later than the later of: (1) the time set for filing of claims in the receivership; or (2) 28 days after the notice by the receiver of the termination of the executory contract.

Sec. 26. **[576.46] SALES FREE AND CLEAR OF LIEN IN GENERAL RECEIVERSHIPS.**

Subdivision 1. Sales free and clear of liens. (a) The court may order that a general receiver's sale of receivership property is free and clear of all liens, except any lien for unpaid real estate taxes or assessments and liens arising under federal law, and may be free of the rights of redemption of the respondent if the rights of redemption are receivership property and the rights of redemption of the holders of any liens, regardless of whether the sale will generate proceeds sufficient to fully satisfy all liens on the property, unless either:

(1) the property is (i) real property classified as agricultural land under section 273.13, subdivision 23, or the property is a homestead under section 510.01; and (ii) each of the owners of the property has not consented to the sale following the time of appointment; or

(2) any owner of the property or holder of a lien on the property serves and files a timely objection, and the court determines that the amount likely to be realized from the sale by the objecting person is less than the objecting person would realize within a reasonable time in the absence of this sale.

(b) The receiver shall have the burden of proof to establish that the amount likely to be realized by the objecting person from the sale is equal to or more than the objecting person would realize within a reasonable time in the absence of the sale.

(c) Upon any sale free and clear of liens authorized by this section, all liens encumbering the property conveyed shall transfer and attach to the proceeds of the sale, net of reasonable expenses approved by the court incurred in the disposition of the property, in the same order, priority, and validity as the liens had with respect to the property immediately before the sale. The court may authorize the receiver to satisfy, in whole or in part, any ownership interest or lien out of the proceeds of the sale if the ownership interest or lien of any party in interest would not thereby be impaired.

Subd. 2. Co-owned property. If any receivership property includes an interest as a co-owner of property, the receiver shall have the rights and powers afforded by applicable state or federal law of the respondent, including but not limited to any rights of partition, but may not sell the property free and clear of the co-owner's interest in the property.

Subd. 3. **Right to credit bid.** A creditor with a claim secured by a valid and perfected lien against the property to be sold may bid on the property at a sale and may offset against the purchase price part or all of the amount secured by its lien, provided that the creditor tenders cash sufficient to satisfy in full the reasonable expenses, approved by the court, incurred in the disposition of the property and all liens payable out of the proceeds of sale having priority over the lien of that creditor.

Subd. 4. **Effect of appeal.** The reversal or modification on appeal of an authorization to sell property under this section does not affect the validity of a sale to a person that purchased the property in good faith, whether or not the person knew of the pendency of the appeal, unless the authorization and sale is stayed pending the appeal.

Sec. 27. **[576.47] ABANDONMENT OF PROPERTY.**

The court may authorize the receiver to abandon any receivership property that is burdensome or is not of material value to the receivership. Property that is abandoned is no longer receivership property.

Sec. 28. **[576.48] LIENS AGAINST AFTER-ACQUIRED PROPERTY.**

Except as otherwise provided for by statute, property that becomes receivership property after the time of appointment is subject to a lien to the same extent as it would have been in the absence of the receivership.

Sec. 29. **[576.49] CLAIMS PROCESS.**

Subdivision 1. **Recommendation of receiver.** In a general receivership, and in a limited receivership if the circumstances require, the receiver shall submit to the court a recommendation concerning a claims process appropriate to the particular receivership.

Subd. 2. **Order establishing process.** In a general receivership and, if the court orders, in a limited receivership, the court shall establish the claims process to be followed in the receivership addressing whether proofs of claim must be submitted, the form of any proofs of claim, the place where the proofs of claim must be submitted, the deadline or deadlines for submitting the proofs of claim, and other matters bearing on the claims process.

Subd. 3. **Alternative procedures.** The court may authorize proofs of claim to be filed with the receiver rather than the court. The court may authorize the receiver to treat claims as allowed claims based on the amounts established in the books and records of the respondent or the schedule of claims filed pursuant to section 576.33, without necessity of formal proofs of claim.

Sec. 30. **[576.50] OBJECTION TO AND ALLOWANCE OF CLAIMS.**

Subdivision 1. **Objections and allowance.** The receiver or any party in interest may file a motion objecting to a claim and stating the grounds for the objection. The court may order that a copy of the objection be served on the persons on the master service list at least 30 days prior to the hearing. Claims allowed by court order, and claims properly submitted and not disallowed by the court shall be allowed claims and shall be entitled to share in distributions of receivership property in accordance with the priorities provided by this chapter or otherwise by law.

Subd. 2. **Examination of claims.** If the claims process does not require proofs of claim to be filed with the court, at any time after expiration of the claim-filing period and upon 14 days' written notice to the receiver, any party in interest shall have the right to examine:

(1) all claims filed with the receiver; and

(2) all books and records in the receiver's possession that provided the receiver the basis for concluding that creditors identified therein are entitled to participate in any distributions of receivership property without having to file claims.

Subd. 3. **Estimation of claims.** For the purpose of allowance of claims, the court may estimate:

(1) any contingent or unliquidated claim, the fixing or liquidation of which would unduly delay the administration of the receivership; or

(2) any right to payment arising from a right to an equitable remedy.

Sec. 31. **[576.51] PRIORITY OF CLAIMS.**

Subdivision 1. **Priorities.** Allowed claims shall receive distribution under this chapter in the following order of priority and, except as set forth in clause (1), on a pro rata basis:

(1) claims secured by liens on receivership property, which liens are valid and perfected before the time of appointment, to the extent of the proceeds from the disposition of the collateral in accordance with their respective priorities under otherwise applicable law, subject first to reimbursing the receiver for the reasonable and necessary expenses of preserving, protecting, or disposing of the collateral, including allowed fees and reimbursement of reasonable expenses of the receiver and professionals;

(2) actual, necessary costs and expenses incurred during the receivership, other than those expenses allowable under clause (1), including allowed fees and reimbursement of reasonable expenses of the receiver and professionals employed by the receiver under section 576.32;

(3) claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within the 90 days before the time of appointment or the cessation of the respondent's business, whichever occurs first, but only to the extent of the dollar amount in effect in United States Code, title 11, section 507(4);

(4) allowed unsecured claims, to the extent of the dollar amount in effect in United States Code, title 11, section 507(7) for each individual, arising from the deposit with the respondent, before the time of appointment of the receiver, of money in connection with the purchase, lease, or rental of property or the purchase of services for personal, family, or household use by individuals that were not delivered or provided;

(5) claims for arrears in amounts owing pursuant to a support order as defined in section 518A.26, subdivision 3;

(6) unsecured claims of governmental units for taxes that accrued before the time of appointment of the receiver;

(7) all other unsecured claims due as of the time of appointment, including the balance due the holders of secured claims to the extent not satisfied under clause (1); and

(8) interest pursuant to section 576.52.

Subd. 2. **Payments to respondent.** If all of the amounts payable under subdivision 1 have been paid in full, any remaining receivership property shall be returned to the respondent.

Sec. 32. **[576.52] INTEREST ON UNSECURED CLAIMS.**

To the extent that funds are available to pay holders of allowed unsecured claims in full or the amounts due as of the time of appointment, each holder shall also be entitled to receive interest, calculated from the time of appointment, at the rate set forth in the agreement evidencing the claim, or if no rate is provided, at the judgment rate that would be payable as of the time of appointment; provided however, that no holder shall be entitled to interest on that portion, if any, of its unsecured claim that is itself interest calculated from the time of appointment. If there are not sufficient funds in the receivership to pay in full the interest owed to all the holders, then the interest shall be paid pro rata.

Sec. 33. **[576.53] DISTRIBUTIONS.**

Subdivision 1. **Proposed distributions.** Before any interim or final distribution is made, the receiver shall file a distribution schedule listing the proposed distributions. The distribution schedule may be filed at any time during the case or may be included in the final report.

Subd. 2. **Notice.** The receiver shall give notice of the filing of the distribution schedule to all persons on the master mailing list or that have filed proofs of claim. If there is no objection within 21 days after the notice, the court may enter an order authorizing the receiver to make the distributions described in the distribution schedule without the necessity of a hearing.

Subd. 3. **Other distributions.** In the order appointing the receiver or in subsequent orders, the court may authorize distribution of receivership property to persons with ownership interests or liens.

ARTICLE 2  
ASSIGNMENTS FOR THE BENEFITS OF CREDITORS

Section 1. **[577.11] DEFINITIONS.**

(a) The definitions in this section and in section 576.21 apply throughout this chapter unless the context requires otherwise.

(b) "Assignee" means the person to whom the assignment property is assigned.

(c) "Assignment property" means the property assigned pursuant to the provisions of this chapter.

(d) "Assignor" means the person who assigns the assignment property.

(e) "Time of assignment" means the date and time endorsed by the court administrator pursuant to section 577.14.

Sec. 2. **[577.12] REQUISITES.**

A person may execute a written assignment of property to one or more assignees for the benefit of creditors in conformity with the provisions of this chapter. Every assignment for the benefit of creditors subject to this chapter made by an assignor of the whole or any part of the assignor's property, real or personal, for the benefit of creditors, shall be: (1) to a resident of the state eligible to be a receiver under section 576.26, in writing, subscribed and acknowledged by the assignor, and (2) filed by the assignor or the assignee with the court administrator of the district court of the county in which the assignor, or one of the assignors if there is more than one, resides, or in which the principal place of business of an assignor engaged in business is located. The district court shall have supervision over the assignment property and of all proceedings under this chapter.

Sec. 3. **[577.13] FORM OF ASSIGNMENT.**

An assignment for the benefit of creditors under this chapter shall be signed by the assignor and duly acknowledged in the same manner as conveyances of real property before a notary public of the state, shall include an acceptance of the assignment by the assignee, and shall be in substantially the following form:

ASSIGNMENT

THIS ASSIGNMENT is made this .... day of ....., ....., by and between....., with a principal place of business at ..... (hereinafter "assignor"), and ....., whose address is ..... (hereinafter "assignee").

WHEREAS, the assignor has been engaged in the business of.....

WHEREAS, the assignor is indebted to creditors and is unable to pay debts as they become due, and is desirous of providing for the payment of debts, so far as it is possible by an assignment of property for that purpose.

NOW, THEREFORE, the assignor, in consideration of the assignee's acceptance of this assignment, and for other good and valuable consideration, hereby assigns to the assignee, and the assignee's successors and assigns, the assignor's property, except the property as is exempt by law from levy and sale under an execution (and then only to the extent of the exemption), including but not limited to all real property, fixtures, goods, stock, inventory, equipment, furniture, furnishings, accounts receivable, general intangibles, bank deposits, cash, promissory notes, cash value and proceeds of insurance policies, claims, and demands belonging to the assignor, wherever the property may be located (hereinafter collectively the "assignment property"), which property is set forth on Schedule A attached hereto.

A list of the creditors of the assignor is set forth in Schedule B annexed hereto.

By making this assignment, the assignor consents to the appointment of the assignee as a general receiver with respect to the assignment property in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall take possession of and administer the assignment property and shall liquidate the assignment property with reasonable dispatch, collect all claims and demands hereby assigned as and to the extent they may be collectible, and pay and discharge all reasonable expenses, costs, and disbursements in connection with the execution and administration of this assignment from the proceeds of the liquidations and collections in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall then pay and discharge in full, to the extent that funds are available from the assignment property after payment of expenses, costs, and disbursements, all of the debts and liabilities now due from the assignor, including interest on the debts and liabilities in full, in accordance with Minnesota Statutes, chapters 576 and 577.

In the event that all debts and liabilities are paid in full, the remainder of the assignment property shall be returned to the assignor.

To accomplish the purposes of this assignment, the assignor hereby irrevocably appoints the assignee as the assignor's true and lawful attorney-in-fact, with full power and authority to do all acts and things which may be necessary to execute and fulfill the assignment hereby created, to the same extent as the acts and things might be done by the assignor in the absence of this assignment, including, but not limited to, the power to demand and recover from all persons all assignment property; to sue for the recovery of assignment property; to execute, acknowledge, and deliver all necessary deeds, instruments, and conveyances, and to grant and convey any or all of the real or personal property of the assignment property pursuant thereto; and to appoint one or more attorneys to assist the assignee in carrying out the assignee's duties hereunder.

The assignor hereby authorizes the assignee to sign the name of the assignor to any check, draft, promissory note, or other instrument in writing which is payable to the order of the assignor, or to sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purposes of this assignment.

The assignor declares, under penalty of perjury under the laws of the state of Minnesota, that the attached schedules of the property or the assignor and creditors are true and complete to the best of the assignor's knowledge.

The assignee hereby accepts the assignment property and agrees faithfully and without delay to carry out the assignee's duties under the foregoing assignment.

.....  
Assignor

.....  
Assignee

Dated: .....

Dated: .....

Sec. 4. **[577.14] DUTY OF COURT ADMINISTRATOR.**

The court administrator shall endorse the day, hour, and minute of the filing of the assignment. The assignment shall be entered in the court administrator's register, and all papers filed and orders made in the matter of the assignment shall be noted therein as in the case of a civil action.

Sec. 5. **[577.15] ASSIGNEE AS LIEN CREDITOR; REAL ESTATE RECORDING.**

Subdivision 1. **Assignee as lien creditor.** As of the filing of the assignment, the assignee shall have the powers and priority of a creditor that obtained a judicial lien at the time of assignment pursuant to sections 548.09 and 550.10 on all of the assignment property subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate recording.** If any interest in real estate is included in the assignment property, the assignment shall be effective as a deed, and a notice of a lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the assignee as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the assignment under section 507.34. The assignment executed by the assignor and certified by the court administrator and a deed executed by the assignee shall be recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the assignee shall be prima facie evidence of the authority of the assignee to convey the real property described in the assignment.

Sec. 6. **[577.16] NOTICE.**

The assignee shall give notice of the assignment to all creditors and other parties in interest actually known to the assignee by mail or other means of transmission within 21 days after the time of assignment. The notice of the assignment shall include the time of assignment and the names and addresses of the assignor, the assignee, and the assignee's attorney, if any.

Sec. 7. **[577.17] REMOVAL OF ASSIGNEE.**

The court may remove the assignee and appoint another assignee by application of the standards and procedures under section 576.37. The order of removal and appointment shall transfer all of the assignment property to the new assignee, and with respect to real property may be recorded in the same manner as the initial assignment.



Sec. 8. **[577.18] APPLICATION OF CHAPTER GOVERNING RECEIVERSHIPS.**

Except as otherwise provided in this chapter, an assignee shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; and 577.10, are repealed.

ARTICLE 3  
CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 302A.753, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the corporation either at public or private sale.

Sec. 2. Minnesota Statutes 2010, section 302A.753, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~to the payment and discharge or:~~

- ~~(a) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~
- ~~(b) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(c) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act; provided, that claims under this clause shall not be allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(d) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(e) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 3. Minnesota Statutes 2010, section 302A.755, is amended to read:

**302A.755 QUALIFICATIONS OF RECEIVERS; POWERS.**

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts~~ actions as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 4. Minnesota Statutes 2010, section 302A.759, subdivision 1, is amended to read:

Subdivision 1. **Manner and form.** In proceedings referred to in section 302A.751 to dissolve a corporation, the court may require all creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.~~

Sec. 5. Minnesota Statutes 2010, section 302A.761, is amended to read:

### **302A.761 DISCONTINUANCE OF DISSOLUTION PROCEEDINGS.**

The involuntary or supervised voluntary dissolution of a corporation shall be discontinued at any time during the dissolution proceedings when it is established that cause for dissolution no longer exists. When this is established, the court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the corporation all its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 6. Minnesota Statutes 2010, section 308A.945, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, on notice the court directs to be given to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 7. Minnesota Statutes 2010, section 308A.945, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~or:~~

- ~~(1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~
- ~~(2) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative has carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 8. Minnesota Statutes 2010, section 308A.951, is amended to read:

**308A.951 RECEIVER QUALIFICATIONS AND POWERS.**

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver.~~ A receiver must give a bond as ~~directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts actions~~ as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction ~~of over~~ the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.

Sec. 9. Minnesota Statutes 2010, section 308A.961, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claims pursuant to section 576.50.

Sec. 10. Minnesota Statutes 2010, section 308A.965, is amended to read:

**308A.965 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.**

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 11. Minnesota Statutes 2010, section 308B.935, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 12. Minnesota Statutes 2010, section 308B.935, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority:

- ~~(1) the costs and expense of the proceedings, including attorney fees and disbursements;~~
- ~~(2) debts, taxes, and assessments due the United States, this state, and other states in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 13. Minnesota Statutes 2010, section 308B.941, is amended to read:

#### **308B.941 RECEIVER QUALIFICATIONS AND POWERS.**

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give a bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** ~~A receiver may sue and defend in all courts actions as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction of over the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 14. Minnesota Statutes 2010, section 308B.951, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** ~~In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims under oath with the court administrator or with the receiver in a form prescribed by the court pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.~~

Sec. 15. Minnesota Statutes 2010, section 308B.955, is amended to read:

#### **308B.955 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.**

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 16. Minnesota Statutes 2010, section 316.11, is amended to read:

#### **316.11 RECEIVER, APPOINTMENT, DUTIES.**

In any action or proceeding to dissolve a corporation, the court, at any time before judgment, or within three years after judgment, of dissolution, may appoint a receiver to take charge of its estate and effects and to collect the debts and property due and belonging to it, with, in addition to the powers set forth in chapter 576, power to prosecute and defend actions in its name or otherwise, to appoint agents, and do all other acts necessary to the final settlement of the unfinished business of the corporation which it might do if in being. The power of such receiver shall continue so long as the court deems necessary for such purposes. The receiver shall pay all debts due from the corporation, if the funds in hand are sufficient therefor; and, if not, ~~shall distribute the same ratably among the creditors who prove their debts, in the manner directed by the court; and, if there be any balance after the payment of the debts, the receiver shall distribute and pay the same to and among those who are justly entitled thereto, as having been stockholders or members. Every receiver appointed under the provisions of this section shall give bond in such amount as the court shall require, with sureties approved by it~~ the assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the order of priority set forth in section 576.51. After payment of the expenses of the receivership and claims of creditors duly proved, the remaining assets, if any,

shall be distributed to the shareholders in accordance with section 302A.551, subdivision 4. Every receiver appointed under the provisions of this section shall give bond as required by section 576.27 in such amount as the court shall require, with sureties approved by it.

Sec. 17. Minnesota Statutes 2010, section 317A.753, subdivision 3, is amended to read:

Subd. 3. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to the parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the assets of the corporation at a public or private sale.

Sec. 18. Minnesota Statutes 2010, section 317A.753, subdivision 4, is amended to read:

Subd. 4. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the ~~following~~ order of priority ~~to the payment and discharge of:~~

- ~~(1) the costs and expenses of the dissolution proceedings, including attorneys fees and disbursements;~~
- ~~(2) debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(3) claims duly proved and allowed to employees under the Workers' Compensation Act, provided that claims under this clause are not allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of compensation paid in a medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 19. Minnesota Statutes 2010, section 317A.755, is amended to read:

### **317A.755 QUALIFICATIONS OF RECEIVERS; POWERS.**

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver.~~ A receiver shall give bond as ~~directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in courts~~ all actions as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 20. Minnesota Statutes 2010, section 317A.759, subdivision 1, is amended to read:

Subdivision 1. **Filing may be required.** In a proceeding under section 317A.751 to dissolve a corporation, the court may require creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 21. Minnesota Statutes 2010, section 322B.836, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the limited liability company assets, including all amounts owing to the limited liability company by persons who have made contribution agreements and by persons who have made contributions by means of enforceable promises of future performance. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the limited liability company and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the limited liability company either at public or private sale.

Sec. 22. Minnesota Statutes 2010, section 322B.836, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations upon liquidation.** If the court determines that the limited liability company is to be dissolved with winding up to be accomplished by liquidation, then the assets of the limited liability company or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the ~~following~~ order of priority ~~to the payment and discharge or:~~

- ~~(1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~
- ~~(2) debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of chapter 176; provided, that claims under this clause shall not be allowed if the limited liability company carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 23. Minnesota Statutes 2010, section 322B.84, is amended to read:

#### **322B.84 QUALIFICATIONS OF RECEIVERS AND POWERS.**

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic or foreign organization authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts actions~~ as receiver of the limited liability company. The court appointing the receiver has exclusive jurisdiction ~~of over~~ the limited liability company ~~and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 24. Minnesota Statutes 2010, section 462A.05, subdivision 32, is amended to read:

Subd. 32. **Appointment of receivers.** The agency may obtain the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.04~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages contained in sections ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (i), and 559.17, subdivision 2, clause (2), shall be inapplicable to it.

Sec. 25. Minnesota Statutes 2010, section 469.012, subdivision 2i, is amended to read:

Subd. 2i. **Receivers, assignment of rent as security.** An authority may secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.01~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (1), does not apply.

Sec. 26. Minnesota Statutes 2010, section 540.14, is amended to read:

**540.14 ACTIONS AGAINST RECEIVERS; TRIAL; JUDGMENT, HOW SATISFIED.**

Except as limited in chapters 576 and 577, any receiver, assignee, or other person appointed by a court to hold or manage property under its direction, may be sued on account of any acts or transactions in carrying on the business connected with such property without prior leave of court.

Such action may be brought in any county in which it could have been brought against the person or corporation represented by such receiver or other person, shall be tried in the same manner and subject to the same rules of procedure, and any judgment recovered therein against such receiver or other person shall be paid by the receiver or other person as a part of the expenses of managing such property.

Sec. 27. Minnesota Statutes 2010, section 559.17, subdivision 2, is amended to read:

Subd. 2. **Assignment; conditions.** A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) was executed, modified or amended subsequent to August 1, 1977;

(2) secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) is not a lien upon property which was:

(i) entirely homesteaded as agricultural property; or

(ii) residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. The assignment may be enforced, but only against the nonhomestead portion of the mortgaged property, as follows:

(a) if, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section ~~576.01, subdivision 2~~ 576.25, subdivision 5; or

(b) if no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof

to first apply the rents and profits received as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of recording by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 28. Minnesota Statutes 2010, section 576.04, is amended to read:

**576.04 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY.**

If a person entitled to or having an interest in property within or without the jurisdiction of the state has disappeared or absconded from the place within or without the state where last known to be, and has no agent in the state, and it is not known where the person is, or if such person, having a spouse or minor child or children dependent to any extent upon the person for support, has thus disappeared, or absconded without making sufficient provision for such support, and it is not known where the person is, or, if it is known that the person is without the state, any one who would under the law of the state be entitled to administer upon the estate of such absentee if deceased, or if no one is known to be so entitled, some person deemed suitable by the court, or such spouse, or some one in such spouse's or minors' behalf, may file a petition, under oath, in the court for the county where any such property is situated or found, stating the name, age, occupation, and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, whether or not such absentee is a citizen of the United States, and if not, of what country the absentee is a citizen or native, and containing a schedule of the property, real and personal, so far as known, and its location within or without the state, and a schedule of contractual or property rights contingent upon the absentee's death, and praying that real and personal property may be taken possession of and a receiver thereof appointed under ~~this chapter 576~~. No proceedings shall be commenced under the provisions of ~~sections 576.04 to 576.16~~ this chapter, except upon good cause shown until at least three months after the date on which it is alleged in such petition that such person so disappeared or absconded.

Sec. 29. Minnesota Statutes 2010, section 576.06, is amended to read:

**576.06 NOTICE OF SEIZURE; APPOINTMENT OF RECEIVER; DISPOSITION OF PROPERTY.**

Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant, and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in such property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and the property held and disposed of under ~~sections 576.04 to 576.16~~ this chapter.

Sec. 30. Minnesota Statutes 2010, section 576.08, is amended to read:

**576.08 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.**

The absentee, or any person who claims an interest in any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the



property which is in the possession of the officer and named in the schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee; and the receiver shall give a bond ~~to the state in the sum and with the conditions the court orders, to be approved by the court~~ pursuant to section 576.27. In the appointment of the receiver the court shall give preference to the spouse of the absentee, if the spouse is ~~competent and suitable~~ eligible to serve as receiver under section 576.26.

Sec. 31. Minnesota Statutes 2010, section 576.09, is amended to read:

**576.09 POSSESSION TRANSFER OF PROPERTY BY TO RECEIVER.**

After the ~~approval of the~~ receiver gives its bond the court may order the sheriff or a deputy to transfer and deliver to such receiver the possession of the property under the warrant, and the receiver shall file in the office of the court administrator a schedule of the property received.

Sec. 32. Minnesota Statutes 2010, section 576.11, is amended to read:

**576.11 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.**

If the absentee has left no corporeal property within or without the state, but there are debts and obligations due or owing to the absentee from persons within or without the state, a petition may be filed, as provided in section ~~576.04~~ 578.02, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice, as above provided, without issuing a warrant, and may, upon the return of the notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct the receiver to demand and collect the debts and obligations specified in the petition. The receiver shall give bond, as provided in section ~~576.08~~ 576.27, and hold the proceeds of such debts and obligations and all property received, and distribute the same as provided in ~~sections 576.12 to 576.16~~ chapter 576. The receiver may be further authorized and directed as provided in section ~~576.10~~ 578.08.

Sec. 33. Minnesota Statutes 2010, section 576.121, is amended to read:

**576.121 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.**

If the beneficiary under an insurance policy on the life of an absentee is the absentee's spouse, child, or other person dependent upon the absentee for support and advance payments under the policy are necessary to support and maintain the beneficiary, the beneficiary shall be entitled to advance payments as the court determines under section ~~576.122~~ 578.12. "Beneficiary" under this section includes an heir at law of the person whose life is insured if the policy is payable to the insured's estate.

Sec. 34. Minnesota Statutes 2010, section 576.123, is amended to read:

**576.123 REAPPEARANCE OF ABSENTEE.**

Subdivision 1. **Insurance payments; reduction.** If an absentee is declared dead after advance insurance payments have been made pursuant to section ~~576.122~~ 578.12, the amount payable under the policy shall be reduced by the total amount of payments made under section ~~576.122~~ 578.12.

Subd. 2. **Reimbursement of insurer.** If an absentee is found to be living after advance insurance payments have been made to a beneficiary pursuant to section ~~576.122~~ 578.12, the absentee and beneficiary shall reimburse the insurer the amount of the payments made.

If the insurer is unable to obtain full reimbursement, the amount payable under the policy shall be reduced to the extent necessary to allow full reimbursement. Failure of the absentee and beneficiary to reimburse the insurer upon demand for payment sent by the insurer by certified mail to the last known address of the absentee and beneficiary shall be sufficient to show the insurer's inability to obtain reimbursement.

Sec. 35. Minnesota Statutes 2010, section 576.144, is amended to read:

**576.144 DISSOLUTION OF MARRIAGE.**

If the court finds the absentee dead in accordance with section ~~576.142~~ 578.17, the absentee's marriage is dissolved. The court shall enter the conclusion of law dissolving the marriage on the order which establishes the death of the absentee as a matter of law.

Sec. 36. Minnesota Statutes 2010, section 576.15, is amended to read:

**576.15 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST AFTER FOUR YEARS.**

The receiver shall be allowed ~~such~~ compensation and disbursements as ~~the court orders, to be paid out of the property or proceeds provided in chapter 576.~~ If, within four years after the date of the disappearance or absconding, as found and recorded by the court, the absentee appears, and has not been declared dead under section ~~576.142~~ 578.17, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of the absentee is appointed, the receiver shall account for, deliver, and pay over to the absentee the remainder of the property. If the absentee does not appear and claim the property within four years, all the absentee's right, title, and interest in the property, real or personal, or the proceeds thereof, shall cease, and no action shall be brought by the absentee on account thereof.

If the absentee is declared dead pursuant to section ~~576.142~~ 578.17 and appears before the expiration of four years, the absentee shall have no right, title and interest in the property, real or personal, or the proceeds thereof.

Sec. 37. Minnesota Statutes 2010, section 576.16, is amended to read:

**576.16 PROPERTY DISTRIBUTION; TIME LIMITATION.**

If the receiver is not appointed within three years after the date found by the court under section ~~576.08~~ 578.06, the time limited for accounting for, or fixed for distributing, the property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the four years provided in sections ~~576.14~~ 578.15 and ~~576.15~~ 578.20.

The provisions of ~~sections 576.04 to 576.16~~ this chapter shall not be construed as exclusive, but as providing additional and cumulative remedies.

Sec. 38. **REVISOR'S INSTRUCTION.**

The Revisor of Statutes shall renumber each section of Minnesota Statutes listed in Column A with the number in Column B. The Revisor shall correct any incorrect cross-references resulting from this renumbering.

**Column A**

**Column B**

576.011

578.01

576.04

578.02

576.05

578.03

576.06

578.04

576.07

578.05

576.08

578.06

576.09

578.07

576.10

578.08

<u>576.11</u>	<u>578.09</u>
<u>576.12</u>	<u>578.10</u>
<u>571.121</u>	<u>578.11</u>
<u>576.122</u>	<u>578.12</u>
<u>576.123</u>	<u>578.13</u>
<u>576.13</u>	<u>578.14</u>
<u>576.14</u>	<u>578.15</u>
<u>576.141</u>	<u>578.16</u>
<u>576.142</u>	<u>578.17</u>
<u>576.143</u>	<u>578.18</u>
<u>576.144</u>	<u>578.19</u>
<u>576.15</u>	<u>578.20</u>
<u>576.16</u>	<u>578.21</u>

Sec. 39. **REPEALER.**

Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2 and 3; 317A.759, subdivision 2; and 576.01, are repealed.

ARTICLE 4  
UNIFORM DISCLAIMER OF PROPERTY INTERESTS

Section 1. Minnesota Statutes 2010, section 524.2-1103, is amended to read:

**524.2-1103 SCOPE.**

~~Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property, whenever created. Except as provided in section 524.2-1116, sections 524.2-1101 to 524.2-1116 are the exclusive means by which a disclaimer may be made under Minnesota law regardless of whether it is qualified under section 2518 of the Internal Revenue Code of 1986 in effect on January 1, 2010 as defined in section 291.005, subdivision 1, clause 3.~~

Sec. 2. Minnesota Statutes 2010, section 524.2-1104, is amended to read:

**524.2-1104 TAX-QUALIFIED DISCLAIMER.**

Notwithstanding any other provision of this chapter, other than section 524.2-1106, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated pursuant to the provisions of section 2518 of the Internal Revenue Code of 1986, as ~~in effect on January 1, 2010~~ defined in section 291.005, subdivision 1, clause 3, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under sections 524.2-1101 to 524.2-1116.

Sec. 3. Minnesota Statutes 2010, section 524.2-1106, is amended to read:

**524.2-1106 WHEN DISCLAIMER IS BARRED OR LIMITED.**

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) the disclaimant accepts the portion of the interest sought to be disclaimed;

(2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the portion of the interest sought to be disclaimed or contracts to do so;

(3) the portion of the interest sought to be disclaimed is sold pursuant to a judicial sale; or

(4) the disclaimant is insolvent when the disclaimer becomes irrevocable.

(c) Acceptance of a distribution from a trust shall constitute acceptance of only that portion of the beneficial interest in that trust that has been distributed, and shall not constitute acceptance or bar disclaimer of that portion of the beneficial interest in the trust that has not yet been distributed.

(d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

~~(d)~~ (e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

~~(e)~~ (f) A disclaimer of an interest in, or a power over, property which is barred by this section is ineffective.

Sec. 4. Minnesota Statutes 2010, section 524.2-1107, is amended to read:

**524.2-1107 POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE.**

(a) A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) With court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment when acting in a representative capacity. Without court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, if and to the extent that the instrument creating the fiduciary relationship explicitly grants the fiduciary the right to disclaim. With court approval, a custodial parent may disclaim on behalf of a minor child for whom no conservator has been appointed, in whole or in part, any interest in or power over property, including a power of appointment, which the minor child is to receive.

(c) To be effective, a disclaimer must be in writing, declare the writing as a disclaimer, describe the interest or power disclaimed, and be signed by the person or fiduciary making the disclaimer and acknowledged in the manner provided for deeds of real estate to be recorded in this state. In addition, for a disclaimer to be effective, an original of the disclaimer must be delivered or filed in the manner provided in section 524.2-1114.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, specific property, term of years, portion of a beneficial interest in or right to distributions from a trust, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when the disclaimer is delivered or filed pursuant to section 524.2-1114 or it becomes effective as provided in sections 524.2-1108 to 524.2-1113, whichever occurs later.

(f) A disclaimer made under sections 524.2-1101 to 524.2-1116 is not a transfer, assignment, or release.

Sec. 5. Minnesota Statutes 2010, section 524.2-1114, is amended to read:

**524.2-1114 DELIVERY OR FILING.**

(a) Subject to paragraphs (b) to (l), delivery of a disclaimer may be effective by personal delivery, first-class mail, or any other method that results in its receipt. A disclaimer sent by first-class mail is deemed to have been delivered on the date it is postmarked. Delivery by any other method is effective upon receipt by the person to whom the disclaimer is to be delivered under this section.

(b) In the case of a disclaimer of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) the disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration would be proper.

(c) In the case of a disclaimer of an interest in a testamentary trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration of the decedent's estate would be proper.

(d) In the case of a disclaimer of an interest in an inter vivos trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered;

(2) if no trustee is then serving, it must be filed with the clerk of the court in any county where the filing of a notice of trust would be proper; or

(3) if the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the person with the power to revoke the revocable trust or the transferor of the interest or to such person's legal representative.

(e) In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation or to such person's legal representative.

(f) In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

(g) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes or, if such person cannot reasonably be located by the disclaimant, the disclaimer must be delivered as provided in paragraph (b).

(h) In the case of a disclaimer by an object, or taker in default of exercise, of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(1) the holder of the power; or

(2) the fiduciary acting under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(i) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(1) the holder of the power or the personal representative of the holder's estate; or

(2) the fiduciary under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in paragraph (b), (c), or (d) as if the power disclaimed were an interest in property.

(k) In the case of a disclaimer of a power exercisable by an agent, other than a power exercisable by a fiduciary over a trust or estate, the disclaimer must be delivered to the principal or the principal's representative.

(l) Notwithstanding paragraph (a), delivery of a disclaimer of an interest in or relating to real estate shall be presumed upon the recording of the disclaimer in the office of the ~~clerk of the court~~ county recorder or registrar of titles of the county or counties where the real estate is located.

(m) A fiduciary or other person having custody of the disclaimed interest is not liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer or, if the disclaimer is barred under section 524.2-1106, for any otherwise proper distribution or other disposition made in reliance on the disclaimer, if the distribution or disposition is made without actual knowledge of the facts constituting the bar of the right to disclaim.

Sec. 6. Minnesota Statutes 2010, section 524.2-1115, is amended to read:

**524.2-1115 RECORDING OF DISCLAIMER RELATING TO REAL ESTATE.**

(a) A disclaimer of an interest in or relating to real estate does not provide constructive notice to all persons unless the disclaimer contains a legal description of the real estate to which the disclaimer relates and unless the disclaimer is ~~filed for recording~~ recorded in the office of the county recorder or registrar of titles in the county or counties where the real estate is located.

(b) An effective disclaimer meeting the requirements of paragraph (a) constitutes constructive notice to all persons from the time of ~~filing~~ recording. Failure to record the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Sec. 7. Minnesota Statutes 2010, section 524.2-1116, is amended to read:

**524.2-1116 APPLICATION TO EXISTING RELATIONSHIPS.**

~~Except as otherwise provided in section 524.2-1106, an Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property existing on January 1, 2010, as to which the time for delivering or filing a disclaimer under laws superseded by sections 524.2-1101 to 524.2-1116 has not expired, may be disclaimed after January 1, 2010 whenever created."~~

Delete the title and insert:

"A bill for an act relating to civil law; amending statutes regarding receiverships, assignments for the benefit of creditors, and nonprofit corporations; changing, updating, and clarifying certain provisions of the Uniform Disclaimer of Property Interests Act; amending Minnesota Statutes 2010, sections 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 462A.05, subdivision 32; 469.012, subdivision 2i; 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10."

We request the adoption of this report and repassage of the bill.

House Conferees: JOE HOPPE, PAT MAZOROL and STEVE SIMON.

Senate Conferees: DAVE A. THOMPSON, SCOTT J. NEWMAN and RON LATZ.

Hoppe moved that the report of the Conference Committee on H. F. No. 382 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 382, A bill for an act relating to commerce; amending statutes regarding receiverships, assignments for the benefit of creditors, and nonprofit corporations; amending Minnesota Statutes 2010, sections 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 462A.05, subdivision 32; 469.012, subdivision 2i; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Brynaert	Daudt	Doepke	Franson
Allen	Banaian	Buesgens	Davids	Downey	Fritz
Anderson, B.	Barrett	Carlson	Davnie	Drazkowski	Garofalo
Anderson, D.	Beard	Champion	Dean	Eken	Gauthier
Anderson, P.	Benson, J.	Clark	Detmer	Erickson	Gottwalt
Anderson, S.	Benson, M.	Cornish	Dill	Fabian	Greene
Anzelc	Bills	Crawford	Dittrich	Falk	Greiling

Gruenhagen	Huntley	Lesch	Melin	Peppin	Smith
Gunther	Johnson	Liebling	Moran	Persell	Stensrud
Hackbarth	Kahn	Lillie	Morrow	Petersen, B.	Swedzinski
Hamilton	Kath	Loeffler	Mullery	Peterson, S.	Thissen
Hancock	Kelly	Lohmer	Murdock	Poppe	Tillberry
Hansen	Kieffer	Loon	Murphy, E.	Quam	Torkelson
Hausman	Kiel	Mack	Murphy, M.	Rukavina	Urdahl
Hilstrom	Kiffmeyer	Mahoney	Murray	Runbeck	Vogel
Hilty	Knuth	Mariani	Myhra	Scalze	Wagenius
Holberg	Koenen	Marquart	Nelson	Schomacker	Ward
Hoppe	Laine	Mazorol	Nornes	Scott	Wardlow
Hornstein	Lanning	McDonald	Norton	Shimanski	Westrom
Hortman	Leidiger	McElfrick	O'Driscoll	Simon	Winkler
Hosch	LeMieur	McFarlane	Paymar	Slawik	Woodard
Howes	Lenczewski	McNamara	Pelowski	Slocum	

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

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Dean from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day for Monday, March 26, 2012:

S. F. No. 2296; H. F. Nos. 2187, 1816, 1542 and 2173; S. F. No. 1735; H. F. Nos. 2638, 2102, 2239, 2149, 2793, 2632 and 2626; S. F. No. 1586; and H. F. Nos. 2415, 1974, 2508, 1166, 1977, 1976, 1813, 1992, 269 and 2621.

#### CALENDAR FOR THE DAY

H. F. No. 2793, A bill for an act relating to transportation; traffic regulations; allowing vehicle combination to transport property and equipment; amending Minnesota Statutes 2010, section 169.81, subdivision 3.

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	Benson, J.	Dauids	Fabian	Hackbarth	Hosch
Allen	Benson, M.	Davnie	Falk	Hamilton	Howes
Anderson, B.	Bills	Dean	Franson	Hancock	Huntley
Anderson, D.	Brynaert	Dettmer	Fritz	Hansen	Johnson
Anderson, P.	Buesgens	Dill	Garofalo	Hausman	Kahn
Anderson, S.	Carlson	Dittrich	Gauthier	Hilstrom	Kath
Anzelc	Champion	Doepke	Gottwalt	Hilty	Kelly
Atkins	Clark	Downey	Greene	Holberg	Kieffer
Banaian	Cornish	Drazkowski	Greiling	Hoppe	Kiel
Barrett	Crawford	Eken	Gruenhagen	Hornstein	Kiffmeyer
Beard	Daudt	Erickson	Gunther	Hortman	Knuth



Koenen	Loon	Moran	O'Driscoll	Scalze	Tillberry
Laine	Mack	Morrow	Paymar	Schomacker	Torkelson
Lanning	Mahoney	Mullery	Pelowski	Scott	Urdahl
Leidiger	Mariani	Murdock	Peppin	Shimanski	Vogel
LeMieur	Marquart	Murphy, E.	Persell	Simon	Wagenius
Lenczewski	Mazorol	Murphy, M.	Petersen, B.	Slawik	Ward
Lesch	McDonald	Murray	Peterson, S.	Slocum	Wardlow
Liebling	McElfrick	Myhra	Poppe	Smith	Westrom
Lillie	McFarlane	Nelson	Quam	Stensrud	Winkler
Loeffler	McNamara	Nornes	Rukavina	Swedzinski	Woodard
Lohmer	Melin	Norton	Runbeck	Thissen	

The bill was passed and its title agreed to.

S. F. No. 1542, A bill for an act relating to insurance; modifying defensive driving refresher course requirements; amending Minnesota Statutes 2010, section 65B.28, subdivision 4.

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	Davids	Hackbarth	Koenen	Moran	Scalze
Allen	Davnie	Hamilton	Laine	Morrow	Schomacker
Anderson, B.	Dean	Hancock	Lanning	Mullery	Scott
Anderson, D.	Dettmer	Hansen	Leidiger	Murdock	Shimanski
Anderson, P.	Dill	Hausman	LeMieur	Murphy, E.	Simon
Anderson, S.	Dittrich	Hilstrom	Lenczewski	Murphy, M.	Slawik
Anzelc	Doepke	Hilty	Lesch	Murray	Slocum
Atkins	Downey	Holberg	Liebling	Myhra	Smith
Banaian	Drazkowski	Hoppe	Lillie	Nelson	Stensrud
Barrett	Eken	Hornstein	Loeffler	Nornes	Swedzinski
Beard	Erickson	Hortman	Lohmer	Norton	Thissen
Benson, J.	Fabian	Hosch	Loon	O'Driscoll	Tillberry
Benson, M.	Falk	Howes	Mack	Paymar	Torkelson
Bills	Franson	Huntley	Mahoney	Pelowski	Urdahl
Brynaert	Fritz	Johnson	Mariani	Peppin	Vogel
Buesgens	Garofalo	Kahn	Marquart	Persell	Wagenius
Carlson	Gauthier	Kath	Mazorol	Petersen, B.	Ward
Champion	Gottwalt	Kelly	McDonald	Peterson, S.	Wardlow
Clark	Greene	Kieffer	McElfrick	Poppe	Westrom
Cornish	Greiling	Kiel	McFarlane	Quam	Winkler
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Woodard
Daudt	Gunther	Knuth	Melin	Runbeck	

The bill was passed and its title agreed to.

H. F. No. 2253, A bill for an act relating to human services; allowing out-of-state residential mental health treatment for certain children; amending Minnesota Statutes 2010, section 256B.0945, subdivision 1.

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	Davids	Hackbarth	Koenen	Moran	Scalze
Allen	Davnie	Hamilton	Laine	Morrow	Schomacker
Anderson, B.	Dean	Hancock	Lanning	Mullery	Scott
Anderson, D.	Dettmer	Hansen	Leidiger	Murdock	Shimanski
Anderson, P.	Dill	Hausman	LeMieur	Murphy, E.	Simon
Anderson, S.	Dittrich	Hilstrom	Lenczewski	Murphy, M.	Slawik
Anzelc	Doepke	Hilty	Lesch	Murray	Slocum
Atkins	Downey	Holberg	Liebling	Myhra	Smith
Banaian	Draskowski	Hoppe	Lillie	Nelson	Stensrud
Barrett	Eken	Hornstein	Loeffler	Nornes	Swedzinski
Beard	Erickson	Hortman	Lohmer	Norton	Thissen
Benson, J.	Fabian	Hosch	Loon	O'Driscoll	Tillberry
Benson, M.	Falk	Howes	Mack	Paymar	Torkelson
Bills	Franson	Huntley	Mahoney	Pelowski	Urdahl
Brynaert	Fritz	Johnson	Mariani	Peppin	Vogel
Buesgens	Garofalo	Kahn	Marquart	Persell	Wagenius
Carlson	Gauthier	Kath	Mazorol	Petersen, B.	Ward
Champion	Gottwalt	Kelly	McDonald	Peterson, S.	Wardlow
Clark	Greene	Kieffer	McElfatrick	Poppe	Westrom
Cornish	Greiling	Kiel	McFarlane	Quam	Winkler
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Woodard
Daudt	Gunther	Knuth	Melin	Runbeck	

The bill was passed and its title agreed to.

H. F. No. 2173, A bill for an act relating to consumer protection; clarifying the definition of home solicitation sale; amending Minnesota Statutes 2010, section 325G.06, subdivision 2.

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 126 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Abeler	Brynaert	Downey	Gunther	Johnson	Lesch
Allen	Carlson	Draskowski	Hackbarth	Kahn	Liebling
Anderson, B.	Champion	Eken	Hamilton	Kath	Lillie
Anderson, D.	Clark	Erickson	Hansen	Kelly	Loeffler
Anderson, P.	Cornish	Fabian	Hausman	Kieffer	Lohmer
Anderson, S.	Crawford	Falk	Hilstrom	Kiel	Loon
Anzelc	Daudt	Franson	Hilty	Kiffmeyer	Mack
Atkins	Davids	Fritz	Holberg	Knuth	Mahoney
Banaian	Davnie	Garofalo	Hoppe	Koenen	Mariani
Barrett	Dean	Gauthier	Hornstein	Laine	Marquart
Beard	Dettmer	Gottwalt	Hortman	Lanning	Mazorol
Benson, J.	Dill	Greene	Hosch	Leidiger	McDonald
Benson, M.	Dittrich	Greiling	Howes	LeMieur	McElfatrick
Bills	Doepke	Gruenhagen	Huntley	Lenczewski	McFarlane

McNamara	Murphy, M.	Paymar	Runbeck	Slocum	Urdahl
Melin	Murray	Pelowski	Scalze	Smith	Vogel
Moran	Myhra	Persell	Schomacker	Stensrud	Wagenius
Morrow	Nelson	Peterson, S.	Scott	Swedzinski	Ward
Mullery	Nornes	Poppe	Shimanski	Thissen	Westrom
Murdock	Norton	Quam	Simon	Tillberry	Winkler
Murphy, E.	O'Driscoll	Rukavina	Slawik	Torkelson	Woodard

Those who voted in the negative were:

Buesgens	Hancock	Peppin	Petersen, B.	Wardlow
----------	---------	--------	--------------	---------

The bill was passed and its title agreed to.

H. F. No. 1923 was reported to the House.

Holberg and O'Driscoll moved to amend H. F. No. 1923, the first engrossment, as follows:

Page 2, line 7, after the period, insert "The Metropolitan Council shall not require a public water supplier to implement a conservation rate structure."

A roll call was requested and properly seconded.

The question was taken on the Holberg and O'Driscoll amendment and the roll was called. There were 69 yeas and 62 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Daudt	Gruenhagen	Kiffmeyer	Murdock	Smith
Anderson, D.	Davids	Gunther	Lanning	Murray	Stensrud
Anderson, P.	Dean	Hackbarth	Leidiger	Myhra	Swedzinski
Anderson, S.	Dettmer	Hamilton	LeMieur	Nornes	Torkelson
Banaian	Doepke	Hancock	Lohmer	O'Driscoll	Urdahl
Barrett	Downey	Holberg	Loon	Peppin	Vogel
Beard	Drazkowski	Hoppe	Mack	Petersen, B.	Wardlow
Benson, M.	Erickson	Howes	Mazorol	Quam	Westrom
Bills	Fabian	Kath	McDonald	Runbeck	Woodard
Buesgens	Franson	Kelly	McElfatrick	Schomacker	
Cornish	Garofalo	Kieffer	McFarlane	Scott	
Crawford	Gottwalt	Kiel	McNamara	Shimanski	

Those who voted in the negative were:

Abeler	Clark	Greene	Hosch	Lesch	Moran
Allen	Davnie	Greiling	Huntley	Liebling	Morrow
Anzelc	Dill	Hansen	Johnson	Lillie	Mullery
Atkins	Dittrich	Hausman	Kahn	Loeffler	Murphy, E.
Benson, J.	Eken	Hilstrom	Knuth	Mahoney	Murphy, M.
Brynaert	Falk	Hilty	Koenen	Mariani	Nelson
Carlson	Fritz	Hornstein	Laine	Marquart	Norton
Champion	Gauthier	Hortman	Lenczewski	Melin	Paymar

Pelowski	Poppe	Simon	Thissen	Ward
Persell	Rukavina	Slawik	Tillberry	Winkler
Peterson, S.	Scalze	Slocum	Wagenius	

The motion prevailed and the amendment was adopted.

H. F. No. 1923, A bill for an act relating to waters; requiring water supply demand reduction measures; amending Minnesota Statutes 2010, section 103G.291, subdivisions 3, 4.

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 71 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Daudt	Gruenhagen	Kiel	McNamara	Shimanski
Anderson, D.	Dauids	Gunther	Kiffmeyer	Murdock	Slawik
Anderson, P.	Dean	Hackbarth	Lanning	Murray	Smith
Anderson, S.	Dettmer	Hamilton	Leidiger	Myhra	Stensrud
Banaian	Doepke	Hancock	LeMieur	Nornes	Swedzinski
Barrett	Downey	Holberg	Lohmer	O'Driscoll	Torkelson
Beard	Drazkowski	Hoppe	Loon	Peppin	Urdahl
Benson, M.	Erickson	Hosch	Mack	Petersen, B.	Vogel
Bills	Fabian	Howes	Mazorol	Quam	Wardlow
Buesgens	Franson	Kath	McDonald	Runbeck	Westrom
Cornish	Garofalo	Kelly	McElfratrick	Schomacker	Woodard
Crawford	Gottwalt	Kieffer	McFarlane	Scott	

Those who voted in the negative were:

Abeler	Dill	Hilstrom	Lenczewski	Morrow	Poppe
Allen	Dittrich	Hilty	Lesch	Mullery	Rukavina
Anzelc	Eken	Hornstein	Liebling	Murphy, E.	Scalze
Atkins	Falk	Hortman	Lillie	Murphy, M.	Simon
Benson, J.	Fritz	Huntley	Loeffler	Nelson	Slocum
Brynaert	Gauthier	Johnson	Mahoney	Norton	Thissen
Carlson	Greene	Kahn	Mariani	Paymar	Tillberry
Champion	Greiling	Knuth	Marquart	Pelowski	Wagenius
Clark	Hansen	Koenen	Melin	Persell	Ward
Davnie	Hausman	Laine	Moran	Peterson, S.	Winkler

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

Dean moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

**ANNOUNCEMENT BY THE SPEAKER**

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1567:

Fabian, Hancock, McNamara, Torkelson and Dill.

**MOTIONS AND RESOLUTIONS**

Gunther moved that the name of Westrom be added as an author on H. F. No. 1141. The motion prevailed.

Erickson moved that the name of Westrom be added as an author on H. F. No. 1237. The motion prevailed.

Gruenhagen moved that his name be stricken as an author on H. F. No. 1954. The motion prevailed.

Myhra moved that the names of Buesgens, Greiling and Pelowski be added as authors on H. F. No. 2127. The motion prevailed.

Hilty moved that his name be stricken as an author on H. F. No. 2342. The motion prevailed.

Dauids moved that the name of Torkelson be added as an author on H. F. No. 2342. The motion prevailed.

Scott moved that the name of Hansen be added as an author on H. F. No. 2404. The motion prevailed.

Hackbarth moved that the name of Hortman be added as an author on H. F. No. 2413. The motion prevailed.

Hoppe moved that the name of Westrom be added as an author on H. F. No. 2475. The motion prevailed.

Loon moved that the name of Dettmer be added as an author on H. F. No. 2506. The motion prevailed.

Barrett moved that the name of Atkins be added as an author on H. F. No. 2508. The motion prevailed.

Hausman moved that the name of Moran be added as an author on H. F. No. 2800. The motion prevailed.

Clark moved that the name of Scalze be added as an author on H. F. No. 2808. The motion prevailed.

Hortman moved that the name of Slocum be added as an author on H. F. No. 2825. The motion prevailed.

Mariani moved that the name of Hortman be added as an author on H. F. No. 2840. The motion prevailed.

Doepke moved that the name of Stensrud be added as an author on H. F. No. 2878. The motion prevailed.

Persell moved that the name of Ward be added as an author on H. F. No. 2953. The motion prevailed.

Morrow moved that the name of Clark be added as an author on H. F. No. 2955. The motion prevailed.

Holberg moved that S. F. No. 1975 be recalled from the Committee on Commerce and Regulatory Reform and be re-referred to the Committee on Ways and Means. The motion prevailed.

Dean introduced:

House Concurrent Resolution No. 6, A House concurrent resolution relating to adjournment for more than three days.

The concurrent resolution was referred to the Committee on Rules and Legislative Administration.

#### ADJOURNMENT

Dean moved that when the House adjourns today it adjourn until 1:00 p.m., Tuesday, March 27, 2012. The motion prevailed.

Dean moved that the House adjourn. The motion prevailed, and the Speaker pro tempore Davids declared the House stands adjourned until 1:00 p.m., Tuesday, March 27, 2012.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives